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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

T.L., a minor, by and through his parent  
and guardian, WILLIAM LOZANO,  
individually and on behalf of all others  
similarly situated,

Plaintiff,

vs.

ORANGE UNIFIED SCHOOL  
DISTRICT, BY AND THROUGH  
ERNEST “ERNIE” GONZALEZ,  
ACTING SUPERINTENDENT; CRAIG  
ABERCROMBIE, ACTING  
ASSISTANT SUPERINTENDENT;  
GREG SMITH, FORMER ASSISTANT

CASE NO.

**CLASS ACTION COMPLAINT  
FOR DAMAGES**

**42 U.S.C. §1983-FOURTEENTH  
AMENDMENT, EQUAL  
PROTECTION, DUE PROCESS;  
FOURTH AMENDMENT,  
UNLAWFUL SEIZURE; FIRST  
AMENDMENT, FREEDOM OF  
SPEECH, RIGHT TO PETITION/  
RETALIATION; *MONELL*;**

1 PRINCIPAL; NORA ALVAREZ,  
2 ASSISTANT PRINCIPAL;  
3 HERIBERTO ANGEL, OUSD  
4 EXECUTIVE DIRECTOR; DAVID  
5 RIVERA, DEPUTY  
6 SUPERINTENDENT; DOES 1-3,  
7 MEMBERS OF THE OUSD STUDENT  
8 SUCCESS PANEL; and DOES 4-50,  
9 INCLUSIVE.

10 Defendants.

**CANTON & LAREZ; 20 U.S.C.  
§ 1681, TITLE IX; 42 U.S.C. § 1985  
CONSPIRACY; CAL. CONST.,  
PRIVACY; CAL. CIV. CODE § 52.1,  
BANE ACT; FALSE IMPRISON-  
MENT; CAL. ED. CODE § 220;  
NEGLIGENCE; NEGLIGENT  
HIRING, SUPERVISION,  
TRAINING; CA. GOV. CODE  
§6259, PUBLIC RECORDS ACT;  
DEFAMATION; and CA. PEN.  
CODE §637.2, NON-CONSENSUAL  
TAPING**

**DEMAND FOR JURY TRIAL**

13 Plaintiff T.L., a minor, by and through his parent and guardian, William  
14 Lozano, individually and on behalf of all others similarly situated, brings this  
15 complaint for damages based upon federal civil rights, state constitutional rights,  
16 and state statutory and common law violations committed by the Defendant  
17 Orange Unified School District (“OUSD”) by and through its respective officials,  
18 employees, and/or agents; Defendants Ernest Gonzalez, OUSD Superintendent;  
19 Craig Abercrombie, former Canyon High School (“CHS”) Principal and OUSD  
20 Interim Assistant Superintendent and current OUSD Assistant Superintendent;  
21 Greg Smith, former CHS Assistant Principal; Nora Alvarez, CHS Assistant  
22 Principal; Heriberto Angel, OUSD Executive Director; David Rivera, OUSD  
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CLASS ACTION COMPLAINT FOR DAMAGES

1 Deputy Superintendent; Members of the Student Success Panel (“SSP”), DOEs 1-  
2 3; (collectively, “OUSD Defendants”); and DOEs 4-50 inclusive.

3  
4 **I. INTRODUCTION**

5 On December 14, 2022, two days before the last day of T.L.’s first  
6 semester of high school, DEFENDANT GREG SMITH summoned T.L. to the vice  
7 principal’s office. For over two hours, T.L. was interrogated by DEFENDANT  
8 GREG SMITH and DEFENDANT NORA ALVAREZ about all of his interactions  
9 with his female peers—all of whom were his friends and including females he  
10 dated—over the course of the previous four months during the first semester of his  
11 freshman year of high school. DEFENDANTS’ interrogation required T.L. to  
12 recount all of his normal interactions with his fourteen-year-old female peers,  
13 including any and all “touches on the arm.” He was not allowed to leave. He was  
14 not allowed to call his parents. He was never provided a single piece of evidence,  
15 statement, or information regarding any allegations against him. And he was never  
16 even told that his interrogation related to allegations of sexual harassment or  
17 willful force violations of the California Education Code, the latter of which was  
18 subsequently dismissed.

19 Ultimately, DEFENDANTS accused and charged T.L., a fourteen-year-old  
20 boy, of sexual harassment: a very serious allegation to impose on a child’s  
21 interactions with his peers—his equals. Although disregarded and ignored by the

1 DEFENDANTS, under California Education Code § 212.5, sexual harassment, at a  
2 minimum, requires severe or pervasive conduct or the creation of an intimidating,  
3 hostile, or offensive educational environment. DEFENDANTS not only failed to  
4 come close to meeting these Code requirements, they never even tried.

5  
6 DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ had a  
7 singular mission to charge a fourteen-year-old boy with deviant sexual misconduct  
8 and harassment for having the audacity to ask permission for a kiss from his  
9 fourteen-year-old female peers and having the decency to never force any physical  
10 contact after he was declined. Despite DEFENDANT GREG SMITH and  
11 DEFENDANT NORA ALVAREZ's dogged attempts to fabricate and assign  
12 deviant sex schemes to a fourteen-year-old boy, not a single fourteen-year-old girl  
13 claimed that fourteen-year-old T.L. physically forced a kiss or any sexual contact  
14 from any of them.

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19 After imposing a 4-day suspension that would effectively remove T.L.  
20 from school and all school-related activities (including his starting position on  
21 a varsity high school sports team) for *27 days*, DEFENDANTS subsequently  
22 informed T.L. that more discipline was coming. T.L. was then involuntarily  
23 foisted into a secret disciplinary process, euphemistically phrased as the "Student  
24 Success Panel" (or "SSP"). He and his family quickly realized that there was not a  
25 single explanatory piece of information regarding the SSP—not on his school's  
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1 website, not on the OUSD website, and not on the California Department of  
2 Education website. In fact, there are no established criteria for distinguishing a  
3 child who proceeds to the SSP gauntlet and those who do not. It was simply  
4 “determined” by “the school site” that “the nature” of T.L.’s offense “is beyond  
5 that of a standard suspension.” Nor was there any documentation that explained,  
6 set forth the processes for, or otherwise described the purported SSP “appeals  
7 process.”

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10  
11 T.L. and his family were wholly in the dark, while his education,  
12 reputation, permanent school record, and entire social world were on the line.  
13 Not only did DEFENDANTS trample on T.L.’s numerous protected federal and  
14 state rights, they did so with deliberate indifference to the mental and emotional  
15 well-being of T.L., as well as all of T.L.’s female peers who were also subjected to  
16 compelled interrogations and stripped of free-will. T.L.’s maturation process,  
17 behavioral regulation, and trust have been irrevocably and negatively impacted by  
18 the DEFENDANTS’ actions. What should have been the beginning of a  
19 memorable phase of a child’s high school career was marred by the overzealous  
20 DEFENDANTS in search of a false “me too” moment.

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25 Unfortunately, T.L. is not alone. OUSD imposes its grossly defective,  
26 unlawful, and unconstitutional disciplinary system, including the SSP “process,”  
27 against students of color at *double and triple the rates* of their white counterparts.  
28

1 The likelihood that this difference is due to anything *other* than race is at least *1 in*  
2 *70 million*. Just by virtue of being a student of color, T.L. was at least 2-3 times  
3 more likely than his white schoolmates to be subjected to these violative  
4 methods—a statistic that was unfortunately borne out here.

5  
6 T.L. thus also brings claims on behalf of other students of color who are  
7 or have been subject to OUSD’s unlawful, discriminatory, and unconstitutional  
8 disciplinary process, including its surreptitious SSP “process.” Like T.L., OUSD’s  
9 conduct has violated these students’ constitutionally-guaranteed civil rights and  
10 state law and has caused them to sustain immeasurable damage and injury at a  
11 highly sensitive time of their lives.  
12  
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15 DEFENDANTS’ egregious disciplinary procedural and substantive  
16 violations represent the worst examples of abuse of power by so-called educators  
17 and administrators, and they must be held accountable.  
18

## 19 **II. JURISDICTION**

20  
21 1. Plaintiffs bring this case pursuant to 42 U.S.C. §§ 1983, 1988 and  
22 California’s Constitution and state law. Jurisdiction is based upon 28 U.S.C.  
23 §§ 1331, 1343 (1-4). Supplemental jurisdiction exists over the state claims and  
24 Defendants pursuant to 28 U.S.C. §1367.  
25

26 2. Plaintiffs have fully satisfied the Tort Claims Act as to California state  
27 law claims made herein.  
28

1 **III. VENUE**

2 3. The claims alleged herein arose from events or omissions that  
3  
4 occurred in the County of Orange. Therefore, venue lies in the Central District of  
5 California pursuant to 28 U.S.C. § 1391(b)(2).  
6

7 **IV. PARTIES**

8 ***Plaintiff***

9 4. At all times material to the Complaint, Plaintiff T.L. was a fourteen-  
10 year-old male and is a resident and private citizen of the State California, United  
11 States of America.  
12

13 5. William Lozano is the natural father of T.L., a minor, and is a resident  
14 and private citizen of the State of California, United States of America.  
15

16 ***Defendants***

17 6. Plaintiffs are informed, believe, and thereupon allege that Defendant  
18 ORANGE UNIFIED SCHOOL DISTRICT (“OUSD”) is and at all times  
19 mentioned was, a public school district organized and existing under the laws of  
20 California and situated in Orange County, California.  
21

22 7. OUSD is or was the employer of individually named Defendants  
23 including, but not limited to, those who are sued in their individual and official  
24 capacities, as well as one, or all, of DEFENDANT DOEs 1 through 3.  
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1           8. Defendant ERNEST GONZALEZ is the current SUPERINTENDENT  
2 of OUSD and is a policy maker and/or supervisor acting under color of law within  
3 the course and scope of his employment and is sued herein in his official capacity.  
4 Plaintiff is informed and believes and thereon alleges that this Defendant is a  
5 resident of Orange County.  
6  
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8           9. Defendant CRAIG ABERCROMBIE was the Principal of CANYON  
9 HIGH SCHOOL, and Plaintiff is informed and believes and thereon alleges that  
10 on or about December 5, 2022, after the OUSD Superintendent and Assistant  
11 Superintendent were unlawfully fired from their positions by the OUSD School  
12 Board, DEFENDANT CRAIG ABERCROMBIE was appointed as Interim  
13 Superintendent of OUSD. Plaintiff is informed and believes that sometime in  
14 February 2023, DEFENDANT CRAIG ABERCROMBIE was appointed Acting  
15 Assistant Superintendent. At all times material to the initial disciplinary process  
16 against T.L., including referral to the SSP, DEENDANT CRAIG  
17 ABERCROMBIE was the principal of CANYON HIGH SCHOOL, and at all  
18 times material to the SSP and subsequent appeals, DEFENDANT CRAIG  
19 ABERCROMBIE was the Interim Superintendent and/or Acting Assistant  
20 Superintendent of OUSD, and was a policy maker and/or supervisor and acting  
21 under color of law within the course and scope of his employment, and is sued  
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1 herein in his individual and official capacities. Plaintiff is informed and believes  
2 and thereon alleges that this Defendant is a resident of Orange County.  
3

4 10. Defendant GREG SMITH is and was at all times mentioned in this  
5 Complaint Assistant Principal of CANYON HIGH SCHOOL, is and was a policy  
6 maker and/or supervisor and acting under color of law within the course and scope  
7 of his employment, and is sued in his individual and official capacities. Upon  
8 information and belief, Defendant GREG SMITH is no longer an Assistant  
9 Principal but has an unknown position with OUSD. Plaintiff is informed and  
10 believes and thereon alleges that this Defendant is a resident of Orange County.  
11  
12

13 11. Defendant NORA ALVAREZ is and was at all times mentioned in  
14 this Complaint Assistant Principal of CANYON HIGH SCHOOL, is and was a  
15 policy maker and/or supervisor and acting under color of law within the course  
16 and scope of her employment, and is sued in her individual and official capacities.  
17 Plaintiff is informed and believes and thereon alleges that this Defendant is a  
18 resident of Orange County.  
19  
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21

22 12. Defendant HERIBERTO ANGEL is and was at all times mentioned in  
23 this Complaint EXECUTIVE DIRECTOR of OUSD, is and was a policy maker  
24 and/or supervisor and acting under color of law within the course and scope of his  
25 employment, and is sued in his individual and official capacities. Plaintiff is  
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1 informed and believes and thereon alleges that this Defendant is a resident of  
2 Orange County.  
3

4 13. Defendant DAVID RIVERA is and was at all times mentioned in this  
5 Complaint Deputy Superintendent of OUSD, is and was a policy maker and/or  
6 supervisor and acting under color of law within the course and scope of his  
7 employment, and is sued in his individual and official capacities. Plaintiff is  
8 informed and believes and thereon alleges that this Defendant is a resident of  
9 Orange County.  
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12 14. The identities and names of the Student Success Panel (“SSP”)  
13 Members 1-3 are presently unknown to Plaintiff. Each of the SSP Members is and  
14 was a policy maker and/or supervisor and acting under color of law within the  
15 course and scope of their employment and is sued in his or her individual and  
16 official capacities. Plaintiff therefore sues such persons using “DOEs” or “DOE  
17 DEFENDANTS” for SSP Members, DOEs 1-3, as fictitiously-named defendants.  
18 Plaintiff is informed, believes, and thereupon alleges that there is likely to be  
19 evidentiary support to prove that each DOE Defendant 1-3 was involved in some  
20 manner and legally responsible for the acts, omissions, and/or breaches of duty  
21 alleged below. Plaintiff will amend the Complaint to name the DOE Defendants 1-  
22 3 upon learning their true identities and roles in the actions complained of herein.  
23  
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1           15. The identities and names of the female minors and/or their parents  
2 who made false oral and written statements are presently unknown to Plaintiff.  
3  
4 Plaintiff therefore sues such persons using “DOEs” or DOEs 4-50, as fictitiously-  
5 named defendants. Plaintiff is informed, believes, and thereupon alleges that there  
6 is likely to be evidentiary support to prove that each DOE Defendant 4-50 was  
7 involved in some manner and legally responsible for one or more of the acts  
8 and/or omissions alleged below. Plaintiff will amend the Complaint to name the  
9 DOE Defendants 4-50 upon learning their true identities and roles in the actions  
10 complained of herein.  
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14           16. All of the facts, acts, omissions, events, and circumstances herein  
15 mentioned and described took place in the County of Orange, State of California,  
16 and each Defendant is a resident of the County of Orange, State of California,  
17 and/or have their principal place of business in said County and State, and/or  
18 doing business in said County and State.  
19

20  
21           17. Plaintiff is informed, believes, and thereupon alleges that  
22 Defendants employed by Defendant OUSD were, at all times relevant and  
23 material to this Complaint, acting within the course and scope of their  
24 employment duties for Defendant OUSD, and under color of law. Plaintiff is  
25 informed, believes, and thereupon alleges that each of the individual  
26 Defendant’s acts were known to, discovered by, approved by, and/or ratified  
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1 by Defendant OUSD, by and through their policy makers, decision makers,  
2 officials, officers, and/or supervisors, including named Defendants, and  
3 applicable DOE Defendants.  
4

5 18. Plaintiff is informed, believes, and thereupon alleges that officials,  
6 supervisors, policy makers, and other individuals with the authority to set  
7 or modify municipal and/or departmental policy, *de jure* or *de facto*, of  
8 Defendant OUSD and/or DOE Defendants 1-3, participated in, approved of,  
9 ratified, and/or failed to prevent the acts by all Defendants and DOE  
10 Defendants 1 - 3 of which Plaintiffs complain herein.  
11  
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13 19. Plaintiff is informed, believes, and thereupon alleges that at all  
14 times herein mentioned, each of the Defendants--including officials,  
15 supervisors, and other policy makers from Defendant OUSD and/or DOE  
16 Defendants and their agents, was the agent, employee, or co-conspirator of one  
17 other, some, or all of their Co-Defendants. Plaintiff is informed, believes, and  
18 thereupon alleges that each of the Defendants, acting individually and/or in  
19 concert with each other, engaged in a common plan to wrongfully deprive  
20 Plaintiff of his respective rights, interests, and liberties, as such rights are afforded  
21 under the United States Constitution and the California State Constitution and  
22 conspired generally to damage Plaintiff and inflict great injury upon him.  
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1           20. Defendants are referred to collectively at times herein as  
2 “DEFENDANTS.”  
3

4           **V. FACTS COMMON TO ALL CLAIMS FOR RELIEF**

5           21. T.L. is and was at all times mentioned in this Complaint, a fourteen  
6 (14) year old boy.  
7

8           22. T.L. is a Latino Korean boy.

9           23. From August 2022-January 2023, T.L. was a freshman at CANYON  
10 HIGH SCHOOL.  
11

12           24. On or about December 15, 2022, T.L. was summoned by  
13 DEFENDANT GREG SMITH to his office at CANYON HIGH SCHOOL.  
14

15           **A. T.L.’s Over Two-Hour Interrogation**

16           25. T.L. was placed in a room with two Vice Principals: DEFENDANT  
17 GREG SMITH and DEFENDANT NORA ALVAREZ.  
18

19           26. T.L. was not allowed to leave.

20           27. T.L. was not allowed to call his parents.  
21

22           28. T.L. was forced to stay in the room with DEFENDANT GREG  
23 SMITH and DEFENDANT NORA ALVAREZ for over two hours of  
24 interrogation, threats, intimidation, and coercion.  
25

26           29. During the over two-hour interrogation, T.L. did not believe he was  
27 free to leave.  
28

1           30. Although T.L.’s father was on school campus and a few yards away  
2 participating in CANYON HIGH SCHOOL’s Varsity soccer practice, during this  
3 interrogation, and despite requests to call his father, DEFENDANTS GREG  
4 SMITH AND NORA ALVAREZ prohibited T.L. from leaving or calling his  
5 parents.  
6

7  
8           31. T.L.’s father, William Lozano, was called after the over two-hour  
9 interrogation concluded.  
10

11           32. During the over two-hour interrogation, T.L. was not provided any  
12 details regarding the reason for his interrogation or the allegations against him, let  
13 alone any information that he was being disciplined for sexual harassment or  
14 willful force against other female minors.  
15

16           33. During the over two-hour interrogation, T.L. was not provided any  
17 written statements against him.  
18

19           34. At no time during the over-two-hour interrogation did DEFENDANT  
20 GREG SMITH or DEFENDANT NORA ALVAREZ provide T.L. any  
21 information regarding any specific violations of sexual harassment against him,  
22 nor did they ever use the phrase “sexual harassment.”  
23  
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25           35. Instead, during the over two-hour interrogation, T.L. was required by  
26 DEFENDANTS GREG SMITH and NORA ALVAREZ to recount “any and all”  
27  
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1 of his interactions with “any girl” since the beginning of high school, including  
2 anytime he “touched” a female on the arm.  
3

4 36. Over the course of the over two-hour interrogation, T.L. was never  
5 told the names of any accusers, the dates at issue, the locations at issue, the  
6 specific allegations against him, or even the phrase “sexual harassment.”  
7

8 37. Over the course of the over two-hour interrogation, T.L. was  
9 intimidated by DEFENDANT GREG SMITH with references to criminal  
10 interrogations and police interrogations in an abusive effort to intimidate and  
11 scare T.L., but T.L. was never provided the specific violations or allegations  
12 related to sexual harassment.  
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15 38. Over the course of the over two-hour interrogation, T.L. was  
16 intimidated and asked by DEFENDANT GREG SMITH and DEFENDANT  
17 NORA ALVAREZ regarding his “interactions” with all other female freshman  
18 students, including females he “dated” or was “talking to”<sup>1</sup> and any and all  
19 “physical touches” including touches “on the arm” or “brushes up against” any  
20 other females. Importantly, T.L. was required to recount as many such vague  
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25 <sup>1</sup> References to “dating” or “talking to” should be taken in the context of fourteen-  
26 year-olds who “date” or “talk” to each other. It did not involve “dates” outside of  
27 seeing each other at school and as referenced in further detail below did not  
28 involve sexual contact other than holding hands, hugging, and a peck on the cheek  
or lips.

1 interactions with all Female Students and girlfriends he had ever had in high  
2 school, spanning the previous four months and potentially even middle school.  
3

4 39. DEFENDANT GREG SMITH and DEFENDANT NORA  
5 ALVAREZ provided no parameters or explanation as to why they were asking for  
6 these types of innocent interactions, let alone that they would be used against him  
7 as sexual harassment. There was no exclusion, distinction, or parameters  
8 regarding typical and/or inadvertent physical brushes and bumps throughout the  
9 school day in the hallways, horseplaying, slapping each other on the bottom  
10 whether in sports or at school amongst friends, and hugging, holding hands or  
11 kissing between friends and teens who are “dating” or “talking.”  
12  
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14

15 40. Over the course of the over two-hour interrogation, DEFENDANT  
16 GREG SMITH and DEFENDANT NORA ALVAREZ told T.L. that this was  
17 his “last chance” to prove his “innocence,” but no information was provided as to  
18 what he was defending himself against, and absolutely nothing was mentioned  
19 about sexual harassment or willful force. T.L. was confused and scared.  
20  
21

22 41. In an outrageous example of abuse of power and intimidation, over  
23 the course of the over two-hour interrogation, DEFENDANT GREG SMITH and  
24 DEFENDANT NORA ALVAREZ asked T.L. if he was being sexually abused at  
25 home or whether he had been or was being sexually abused. There was no basis  
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1 whatsoever for DEFENDANT GREG SMITH or DEFENDANT NORA  
2 ALVAREZ to make these types of inquiries. The only reason for such statements  
3 was to lead T.L. to believe that his normal interactions with other fourteen-year-  
4 old females was criminal, deviant, and abnormal. T.L., as a fourteen-year-old boy,  
5 was confused and made uncomfortable by these statements and questions. T.L.  
6 denied any sexual abuse and did not know the purpose of this line of questioning,  
7 particularly since he had not been told any information regarding a sexual  
8 harassment violation allegation against him.  
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12 42. Over the course of the over two-hour interrogation, DEFENDANT  
13 GREG SMITH and DEFENDANT NORA ALVAREZ asked T.L. if he had a  
14 sexual “problem,” inferring sexually deviant behavior. T.L., as a fourteen-year-old  
15 boy, was confused and made uncomfortable by these statements and questions.  
16 T.L. denied any “problems” and did not know the purpose of this line of  
17 questioning, particularly since he had not been told any information regarding a  
18 sexual harassment violation allegation against him.  
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22 43. Over the course of the over two-hour interrogation, DEFENDANT  
23 GREG SMITH left the room multiple times and left DEFENDANT NORA  
24 ALVAREZ in the room alone with T.L. During one of these occasions,  
25 DEFENDANT NORA ALVAREZ told T.L. that she “hooks up” with her  
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1 husband and asked T.L. if he had the same definition of hooking up. T.L., as a  
2 fourteen-year-old boy, was confused and made uncomfortable by these statements  
3 and questions. T.L. did not understand the comparison that DEFENDANT  
4 NORA ALVAREZ was making between her physical sexual activity with her  
5 husband and his nonsexual interpersonal interactions with other fourteen-year-old  
6 female students.  
7

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10 44. During the over two-hour interrogation, DEFENDANT GREG  
11 SMITH and DEFENDANT NORA ALVAREZ told T.L. that his texts to various  
12 female minors to meet up with him outside of their classes—which they all  
13 voluntarily did—was to “get what he wanted.” Later, DEFENDANT GREG  
14 SMITH and DEFENDANT NORA ALVAREZ misattributed these words to  
15 T.L., when, in fact, they were DEFENDANT GREG SMITH’s words. T.L. did  
16 not force, physically or otherwise, any female out of her chair, out of the  
17 classroom, and into the hallway to meet him.  
18  
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21 45. Because of fear, coercion, confusion, and intimidation, over the  
22 course of two-hours, T.L. recounted as many interactions that he could remember  
23 that he had with his fourteen-year-old female peers, including females he “was  
24 talking to,” females he had “dated,” females he had consensual kisses that were  
25 pecks, and females with whom he had friendships and interpersonal  
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1 communications over the entire course of the previous 120 days of his first  
2 semester of high school.

3  
4 46. Any and all statements written by T.L. after the over two-hour  
5 interrogation were written as a result of coercion, intimidation, duress, threats, and  
6 false information.

7  
8 47. T.L. did not understand the meaning of “under penalty of perjury”  
9 when he signed his statements and did so as a result of coercion, intimidation,  
10 duress, threats, and false information from and by DEFENDANT GREG SMITH  
11 and DEFENDANT NORA ALVAREZ, while being denied the ability to leave or  
12 place a call, including to his parents.  
13  
14

15 **B. The Female Fourteen-Year-Old Students**

16  
17 48. On or about December 9, 2022, T.L. texted Female Student A, a  
18 fourteen-year-old female freshman at Canyon High School, to meet up with him  
19 outside of class. Female Student A had previously voluntarily given T.L. her  
20 phone number.  
21

22 49. Female Student A voluntarily left class and met up with T.L.; she was  
23 not threatened, coerced, or physically forced into doing so. Female Student A  
24 makes no allegations to the contrary.  
25

26 50. As evidenced by the school’s video surveillance recording, Female  
27  
28

1 Student A and T.L. walked together up the stairs where the STEM Building is  
2 located on the west side of campus.  
3

4 51. During the interaction at the top of the stairs, which is not depicted in  
5 the video surveillance footage, T.L. and Female Student A talked and T.L. asked  
6 Female Student A if he could kiss her. Female Student A laughed and asked if she  
7 was being set up. She also said that because she and T.L. were friends, they  
8 shouldn't kiss. T.L. and Female Student A talked for a few more minutes and T.L.  
9 asked again for a kiss. Female Student A declined. These facts are undisputed by  
10 Female Student A's written statement.  
11  
12  
13

14 52. It is also undisputed that T.L. and Female Student A never kissed,  
15 whether by force or consent.  
16

17 53. Female Student A admits that at some point during their interaction,  
18 *she* placed both of her hands on T.L.'s face and said that they were friends and  
19 that they shouldn't make out.  
20

21 54. Following this conversation, Female Student A and T.L. can again be  
22 seen on video surveillance walking back down the stairs together and T.L.  
23 walking Female Student A back to class.  
24

25 55. T.L. and Student A's interaction lasted approximately 3 minutes.

26 56. T.L. did not physically force or verbally threaten Female Student A to  
27  
28

1 walk with him.

2  
3 57. T.L. did not physically force or verbally threaten Female Student A to  
4 walk up the stairs with him.

5  
6 58. As depicted in the video surveillance recording—the only objective  
7 piece of evidence regarding their interaction—Female Student A is not visibly  
8 distressed before or after they were at the top of the stairwell together. She is not  
9 crying. She is not running away from T.L. In fact, they are seen walking side-by-  
10 side together back to class.

11  
12 59. Notably, Female Student A’s written statement references a  
13 conversation and further physical interaction between her and T.L. at the bottom  
14 of the stairs. However, the video surveillance recording is not consistent with her  
15 statement and claims.

16  
17 60. As outlined in further detail below, this video surveillance recording  
18 was only shown to T.L.’s parents upon their insistence on January 10, 2023, in  
19 DEFENDANT GREG SMITH’s office on his computer.

20  
21 61. DEFENDANT GREG SMITH claimed surprise regarding T.L.  
22 parent’s request to see the video because “nobody had ever requested to see any  
23 evidence” related to a disciplinary action before.

24  
25 62. During the viewing of the video on January 10, 2023, T.L.’s parents  
26  
27  
28

1 made the comment to DEFENDANT GREG SMITH and DEFENDANT NORA  
2 ALVAREZ that the video does not depict any wrongdoing whatsoever.  
3  
4 DEFENDANT GREG SMITH responded that it was a grainy video but did not  
5 dispute T.L.'s parents' claims.  
6

7 63. Importantly, as outlined in further detail below, the video surveillance  
8 recording was never produced to T.L.'s parents, despite repeated applicable  
9 public records act requests, and never shown to the SSP Members. However, the  
10 video was included as "evidence" against T.L. in DEFENDANT GREG  
11 SMITH's written statement to the SSP Members.  
12  
13

14 64. On December 9, 2022, after her interaction with T.L., Female Student  
15 A told Vanessa Ilejay, a campus security officer, that she had a "weird"  
16 interaction with T.L. Ms. Ilejay reported this comment to DEFENDANT GREG  
17 SMITH.  
18

19 65. Female Student A did not make any other complaints or allegations  
20 against T.L. before or after this single incident on or about December 9, 2022.  
21

22 66. On Monday, December 12, 2022, according to DEFENDANT GREG  
23 SMITH, DEFENDANT CRAIG ABERCROMBIE received an email from  
24 Female Student A's mother who stated that Female Student A had an  
25  
26  
27  
28

1 “uncomfortable interaction” with T.L. on December 9, 2022.<sup>2</sup>

2 67. DEFENDANT CRAIG ABERCROMBIE “directed” DEFENDANT  
3 GREG SMITH to follow up with Female Student A’s parent. According to  
4 DEFENDANT GREG SMITH, he “phoned the parent” of Female Student A,  
5 who “requested” that DEFENDANT GREG SMITH interview Female Student A  
6 “about the uncomfortable interaction” with T.L.  
7

8 68. Based upon Female Student A’s mother’s request and permission to  
9 interview her daughter on December 12, 2022, DEFENDANT GREG SMITH  
10 and DEFENDANT NORA ALVAREZ conducted an interview of Female  
11 Student A. Notably, neither parents of T.L. nor of any of the other Female  
12 Students who were summoned to the principal’s office were requested to or gave  
13 permission for their children to be interrogated by DEFENDANT GREG SMITH  
14 and DEFENDANT NORA ALVAREZ.  
15

16 69. Female Student A provided a written statement about her interaction  
17 with T.L. on December 9, 2022.  
18

19 70. In that written statement, Female Student A never claimed that T.L.  
20  
21  
22  
23  
24

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25 <sup>2</sup> Despite repeated requests for this e-mail throughout the disciplinary process,  
26 including the appeals, as well as in response to a Public Records Act request,  
27 Defendants have refused to produce it at any time and to date Plaintiff has never  
28 seen this e-mail from Female Student A’s mother.

1 sexually harassed her.

2 71. In that written statement, Female Student A never claimed that T.L.  
3 sexually assaulted her.  
4

5 72. In that written statement, Female Student A never claimed that T.L.  
6 physically forced himself onto her.  
7

8 73. In that written statement, Female Student A never claimed that T.L.  
9 ever kissed her.  
10

11 74. During the over two-hour interrogation, T.L. was not shown or told  
12 about Student A's statement or allegation.  
13

14 75. At Female Student A's request, DEFENDANT GREG SMITH and  
15 DEFENDANT NORA ALVAREZ summoned other female friends of T.L. to  
16 interrogate them about their interpersonal interactions with T.L. However, not a  
17 single one of the subsequently interrogated females had ever made an  
18 independent complaint or report about T.L.  
19

20 76. Upon information and belief, every female summoned to the  
21 principal's office was T.L.'s friend, many as far back as elementary and  
22 middle school, and including some who had previously "dated" him.  
23  
24

25 77. Upon information and belief, every Female Student summoned to the  
26 principal's office was compelled by DEFENDANT GREG SMITH and  
27 DEFENDANT NORA ALVAREZ to provide written statements regarding any  
28



1 interaction they had ever had with T.L.

2 78. Upon information and belief, every female who was summoned to the  
3 principal's office was asked by DEFENDANT GREG SMITH and  
4 DEFENDANT NORA SMITH if they knew of any other females that T.L. had  
5 interactions with over the course of an undetermined amount of months.  
6  
7

8 79. Upon information and belief, after interviewing Female Student A,  
9 DEFENDANT GREG SMITH and DEFENDANT NORA SMITH summoned,  
10 interrogated, and compelled statements from approximately five or more female  
11 minor students.  
12  
13

14 80. One Female Student, Female Student C, who was summoned,  
15 interrogated, and compelled to provide a statement about her interactions with  
16 T.L. provided a statement that referenced the "the beginning of middle school,"  
17 over two years prior. Evidencing DEFENDANT GREG SMITH and  
18 DEFENDANT NORA SMITH's witch hunt, Female Student C's statement  
19 recounts interactions where T.L. would tell her she was "pretty" and "flirt" with  
20 her.  
21  
22

23 81. Female Student C never alleges that T.L. forced her to engage in any  
24 physical or sexual contact whatsoever.  
25

26 82. Female Student C never alleges that T.L. sexually harassed her.  
27

28 83. Female Student C had never made a prior complaint about T.L.

1           84. Female Student C was forced to write a statement about her  
2 interactions with T.L. by DEFENDANT GREG SMITH and DEFENDANT  
3 NORA ALVAREZ.  
4

5           85. During the over two-hour interrogation, T.L. was not shown or told  
6 about Student C's statement or allegation.  
7

8           86. Female Student C's compelled statement also references another  
9 female, Student I who denied ever having an uncomfortable experience with  
10 T.L. However, the identity of Student I is unknown. T.L. was never provided a  
11 statement from this anonymous female, despite multiple requests including a  
12 PRA request, nor does T.L. even know if DEFENDANT GREG SMITH and  
13 DEFENDANT NORA SMITH sought to interview any females with  
14 exculpatory evidence or evidence contrary to their Jeffrey Epstein narrative.  
15  
16  
17

18           87. Another Female Student, Student D, who was summoned,  
19 interrogated, and compelled to provide a statement about her interactions with  
20 T.L. provided a statement that referenced an interaction "a few months ago"  
21 with no specified date or location.  
22

23           88. Female Student D never alleges that T.L. forced her to engage in  
24 any physical or sexual contact whatsoever.  
25

26           89. Female Student D never alleges that T.L. sexually harassed her.  
27

28           90. Female Student D had never made a prior complaint about T.L.

1           91. Female Student D was forced to write a statement about her  
2 interactions with T.L. by DEFENDANT GREG SMITH and DEFENDANT  
3 NORA ALVAREZ.  
4

5           92. During the over two-hour interrogation, T.L. was not shown or told  
6 about Student D's statement or allegation.  
7

8           93. Upon information and belief, after Female Student D was summoned,  
9 interrogated and compelled to provide her statement by DEFENDANT GREG  
10 SMITH and DEFENDANT NORA ALVAREZ, she told T.L. that during her  
11 interrogation she was peppered with questions about T.L. sexually harassing her  
12 or other females. Female Student D reported to T.L. that she told DEFENDANT  
13 GREG SMITH and DEFENDANT NORA ALVAREZ that she did not believe  
14 her interactions with T.L. constituted sexual assault or sexual harassment. Female  
15 Student D also told T.L. that she felt bad for him because she believed some of  
16 the females were lying just to get attention and using T.L. as a target.  
17  
18  
19  
20

21           94. Another Female Student, Female Student E, who was summoned,  
22 interrogated, and compelled to provide a statement about her interactions with  
23 T.L. was another freshman who "dated" T.L. for a few weeks during the semester.  
24 While they were in the "talking" stage of their "relationship" she stated that T.L.  
25 was affectionate but that she "didn't mind too much."  
26  
27

28           95. The statement recounts how Female Student E and T.L. left math

1 class together and walked around campus when he asked for a kiss, and she  
2 declined. The statement also references how they mutually hugged and even  
3 consensually kissed goodbye one day.  
4

5 96. Female Student E never alleges that T.L. forced her to engage in any  
6 physical or sexual contact whatsoever.  
7

8 97. Female Student E never alleges that T.L. sexually harassed her.

9 98. Female Student E had never made a prior complaint about T.L.  
10

11 99. Female Student E was forced to write a statement about her  
12 interactions with T.L. by DEFENDANT GREG SMITH and DEFENDANT  
13 NORA ALVAREZ.  
14

15 100. During the over two-hour interrogation, T.L. was not shown or told  
16 about Student E's statement or allegation.  
17

18 101. Another Female Student, Female Student F, who was summoned,  
19 interrogated, and compelled to provide a statement about her interactions with  
20 T.L. provided a statement that referenced their friendship going as far back to 8<sup>th</sup>  
21 grade in middle school.  
22

23 102. Student F's statement recounts her friendship with T.L. over the  
24 years, including middle school, and instances when they mutually hugged or held  
25 hands.  
26

27 103. Student F references two occasions when T.L. *asked* if he could kiss  
28

1 her, to which she declined. Student F never alleges that T.L. ever kissed her.

2 104. Female Student F never alleges that T.L. forced her to engage in any  
3 physical or sexual contact whatsoever.  
4

5 105. Female Student F never alleges that T.L. sexually harassed her.

6 106. Female Student F had never made a prior complaint about T.L.  
7

8 107. Female Student F was forced to write a statement about her  
9 interactions with T.L. by DEFENDANT GREG SMITH and DEFENDANT  
10 NORA ALVAREZ.  
11

12 108. During the over two-hour interrogation, T.L. was not shown or told  
13 about Student F's statement or allegation.  
14

15 109. Notably, T.L.'s coerced statement also reported that Female Student F  
16 stated that she was high during one of their interactions at school and asked T.L. if  
17 he wanted a hit of her vape, which he declined.  
18

19 110. One final Female Student, Female Student B, who was summoned,  
20 interrogated, and compelled to provide a statement about her interactions with  
21 T.L. provided a statement unlike the others. Student B's statement admitted to  
22 voluntarily leaving class and walking with T.L. because she was "bored."  
23  
24

25 Notably, her statement references this interaction from "months" ago but that is  
26  
27  
28

1 later crossed out and “weeks” ago is written above where “months” had first been  
2 written. However, there is no other detail as to the date or any other details about  
3 the incident.  
4

5 111. Female Student B’s compelled statement recounts an interaction with  
6 T.L. that allegedly happened on campus and involved T.L. touching and grabbing  
7 her chest, her backside, and trying to put his hand up her shirt. Notably, the  
8 statement appears to have been changed to add in these additional incriminating  
9 yet uncorroborated interactions. In fact, these additional forceful interactions  
10 appear to have been written with a different pen altogether. Moreover, although  
11 this interaction apparently occurred “weeks” or “months” before, there is no  
12 associated video surveillance recording, nor did DEFENDANT GREG SMITH  
13 and DEFENDANT NORA ALVAREZ appear to attempt to identify any such  
14 video recording.  
15  
16  
17  
18

19 112. During the over two-hour interrogation, T.L. was not shown or told  
20 about Female Student B’s statement or allegation.  
21

22 113. Upon information and belief, Female Student B is the girl that Female  
23 Student E believed was lying to get attention.  
24

25 114. Importantly, in or around February 2023, T.L. received a call from  
26 Male Student 1 who told T.L. that Female Student B had consensual sex with  
27  
28

1 him. However, after their consensual sex, Female Student B made the false  
2 allegation that Male Student 1 had raped her. Upon information and belief, a real  
3 criminal investigation was conducted by the Anaheim Police Department and  
4 Male Student 1 was cleared of any and all charges of sexual assault or rape of  
5 Female Student B. Further, upon information and belief, Female Student B was  
6 never investigated, disciplined, or charged with false reporting, particularly of such  
7 a serious offense involving sexual assault. Upon information and belief, Female  
8 Student B has a propensity for making false accusations against unwitting  
9 fourteen-year-old boys. At a minimum, a fourteen-year-old female making an  
10 accusation of this nature should have been investigated and corroborated with at  
11 least the same vigor and demand for justice that DEFENDANT GREG SMITH  
12 and DEFENDANT NORA ALVAREZ used in their over two-hour interrogation  
13 of T.L.  
14  
15  
16  
17  
18

19  
20 115. As outlined above, Female Student B was high during her single  
21 reported interaction with T.L. and asked T.L. if he wanted a hit off of her vape.  
22

23 116. Upon information and belief, Female Student B was not disciplined  
24 or even investigated for being high and consuming illicit drugs on campus.  
25

26 117. T.L. was intentionally treated differently from Student B, who is a  
27 white female and there is no discernable reason for the difference in the treatment.  
28

1           118. As outlined above, Student B was the only female student to claim  
2 that T.L. “touched/grabbed” her chest and her “backside” and “tried to put his  
3 hand” up her shirt. After T.L. ultimately learned of these allegations in detail, T.L.  
4 vehemently denied ever touching Student B in this way. Student B also could not  
5 remember if this single interaction with T.L. was weeks or months ago when she  
6 was compelled to write a statement against T.L. This same student, Student B, in  
7 or around February 2023, made additional false allegations against another male  
8 fourteen-year-old, Male Student 1-- that Male Student 1 had raped her, when in  
9 fact they had consensual sex.  
10

11           119. T.L. was intentionally treated differently from Student B, who is a  
12 white female and there is no discernable reason for the difference in the treatment.  
13

14           120. As outlined above, a few weeks prior to the interrogation of T.L. on  
15 December 15, 2022, Student I had previously made false accusations against T.L.  
16 about his receipt of nude pictures from Student I. DEFENDANT GREG SMITH  
17 conducted an investigation, including interviewing T.L. and other students. He  
18 cleared T.L. of any wrongdoing and notified T.L.’s father of same. Student I  
19 admitted to making up the accusation.  
20

21           121. Upon information and belief, Student I was not disciplined or even  
22 investigated for making false statements against T.L.  
23

24           122. T.L. was intentionally treated differently from Student I, who is a  
25



1 white female and there is no discernable reason for the difference in the treatment.

2 123. In another example, upon information and belief, Male Student 2, is a  
3 white male at Canyon High School. During the school year 2021-2022, Male  
4 Student 2 was a freshman and on the varsity basketball team. Male Student 2 was  
5 accused of rape/sexual assault, recording a sex act with another female student  
6 without her consent, and distributing the video of the sex act to third-parties. The  
7 allegations against Male Student B were “handled” by DEFENDANT CRAIG  
8 ABERCROMBIE, the principal at Canyon High School, contrary to standard  
9 investigation procedures. Male Student 2 was not administratively disciplined,  
10 criminally referred, or criminally charged for any of the multiple criminal and  
11 education code violations. Male Student 2 was not suspended or sent to SSP for  
12 his actions.  
13  
14  
15  
16  
17

18 124. T.L. was intentionally treated differently from Male Student 2, who is  
19 a white male, and there is no discernable reason for the difference in the  
20 treatment.  
21

22 125. After T.L. was forced to withdraw from Canyon High School, a  
23 DEFENDANT OUSD unidentified Canyon High School counselor violated  
24 T.L.’s statutory and constitutional privacy rights by falsely informing other  
25 uninvolved students that T.L. was “kicked out” of school because he “tried to  
26  
27  
28

1 make out” with a student and disclosed other confidential and disciplinary  
2 information. To date, T.L. has never received any information about the female  
3 students who were forced to provide statements against T.L.  
4

5 126. What did DEFENDANT GREG SMITH and DEFENDANT  
6 NORA ALVAREZ ignore in their one-sided blind investigation?  
7

- 8 a. In every single instance where T.L. texted any one of the female  
9 students to meet up outside of class, every single one voluntarily  
10 left class to meet T.L.  
11  
12 b. T.L. never threatened any of these females to meet him, talk to  
13 him, or kiss him and there is no evidence or statements to that  
14 effect.  
15  
16 c. T.L. never physically forced any of these females to meet him,  
17 talk to him, or kiss him and there is no evidence or statements to  
18 that effect.  
19  
20 d. None of the single interactions individually or collectively  
21 amounted to the severity required to constitute sexual harassment.  
22  
23 e. None of the single interactions individually or collectively  
24 amounted to the pervasiveness required to constitute sexual  
25 harassment.  
26  
27  
28

- f. None of the single interactions individually or collectively amounted to a hostile environment to constitute sexual harassment.
- g. None of the single interactions individually or collectively amounted to a quid pro quo to constitute sexual harassment.
- h. T.L. never had any actual or perceived power or authority over any of the females who were compelled to write statements.
- i. There is no evidence in the record that any of these females' educational performance was negatively impacted by these individual singular interactions.
- j. There is no evidence in the record to support that an objectively reasonable person would find these single interactions individually or collectively to amount to sexual harassment.

127. In their overzealous pursuit of T.L., DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ failed to provide even a modicum or rudimentary nod to due process. They forgot or did not care that a number of fourteen-year-old children would become collateral damage in their smear campaign against T.L.

128. During the entire interrogation, all of these compelled statements

1 from T.L.’s peers were in DEFENDANT GREG SMITH and DEFENDANT  
2 NORA ALVAREZ’s possession, but none were ever shown or discussed with  
3 T.L.  
4

5 129. Exacting a four-day suspension (that was effectively a 27-day  
6 suspension) was not enough of a Scarlet A for DEFENDANT GREG SMITH,  
7 DEFENDANT NORA ALVAREZ, and DEFENDANT CRAIG  
8 ABERCROMBIE.  
9  
10

11 **C. Suspension and the Student Success Panel**  
12

13 130. It was not until after the over two-hour interrogation of T.L. on  
14 December 15, 2022, that T.L.’s father, William Lozano, was called to the office  
15 and verbally told that T.L. had engaged in “sexual harassment,” and that he was  
16 going to be suspended from school for four days beginning the next day on  
17 December 16, 2022.  
18

19 131. T.L. and William Lozano were not provided any documents, any  
20 information, nor any details regarding the allegations—just that T.L. was  
21 suspended for four days.  
22  
23

24 132. Later the afternoon of December 15, 2022, T.L.’s mother, called  
25 DEFENDANT GREG SMITH.  
26

27 133. T.L.’s mother requested further information and details regarding the  
28

1 allegations and evidence against T.L. T.L.'s mother also asked for details  
2 regarding the appeal process but was told that there was no further information  
3 available regarding an appeal.  
4

5 134. In fact, instead of providing further information about an appeal of the  
6 discipline and findings that had already been imposed, DEFENDANT GREG  
7 SMITH verbally informed T.L.'s mother on the telephone that there would be  
8 "additional" punishment and discipline to be determined at a future yet-to-be-  
9 determined date through a euphemistically phrased "Student Success Panel" or  
10 "SSP" hearing.  
11  
12  
13

14 135. Having never heard of the SSP, T.L.'s mother inquired about any  
15 further information, including written policies and procedures, regarding the SSP  
16 or information anywhere on the school district website or elsewhere.  
17 DEFENDANT GREG SMITH informed T.L.'s mother that there was no  
18 additional information available at that time, public or otherwise, other than that it  
19 is an additional hearing for further discipline for some future undetermined date.  
20  
21  
22

23 136. On Friday, December 16, 2022, after having googled and searched  
24 DEFENDANT OUSD's website, Canyon High School's website, the California  
25 Education Code, and any other potential references for further information  
26 regarding the SSP to no avail, T.L.'s mother emailed DEFENDANT GREG  
27  
28

1 SMITH at 7:05 am the following email: “Good morning Mr. Smith Can you  
2 please send me any documents/links regarding the policies and procedures for the  
3 disciplinary process that we discussed yesterday in regards to my son, [T.L.]? I  
4 tried to find them myself and was unable to locate them. Thank you.”  
5  
6

7 137. On Friday, December 16, 2022—the first day of his four-day  
8 suspension, T.L. was required to go to DEFENDANT GREG SMITH’s office to  
9 take his finals and then leave the campus.  
10

11 138. T.L. reported to DEFENDANT GREG SMITH’s office on December  
12 16, 2022, to take his finals. On that day, he was provided a single-page letter, a  
13 portion of which was erroneously written in Spanish, although T.L. does not  
14 speak Spanish.  
15  
16

17 139. After he completed his final in DEFENDANT GREG SMITH’s  
18 office, DEFENDANT GREG SMITH gave T.L. a written suspension letter  
19 regarding his four-day suspension and the violations related thereto, which were  
20 partially in Spanish. This was at the conclusion of the first day of his “four-day”  
21 suspension.  
22  
23

24 140. Moreover, the suspension letter’s support or explanation for the  
25 “incident that caused the suspension” was comprised of a single, inadequate,  
26 bootstrapping sentence that stated: “[T.L.] sexually harassed and used force  
27  
28

1 against female students at Canyon High School during Semester 1 of the  
2 2022/2023 school year.” No further explanation of the evidence related to his  
3 charges.  
4

5 141. Further, the suspension letter indicated that his “first day back at  
6 school” would be January 12, 2023. Because of the intervening three-week  
7 Winter Break and the additional three days after students returned to school on  
8 Monday, January 9, 2023, and, thus, T.L. was suspended from school for a total  
9 of 27 days.  
10  
11

12 142. Finally, the form stated that the “parent/guardian may request an  
13 appeal hearing before the Superintendent’s designee (site principal).” However, it  
14 was the site principal DEFENDANT CRAIG ABERCROMBIE who imposed the  
15 discipline, as well as the subsequent SSP progress. Thus, the appeal was to the  
16 actual decisionmaker, in violation of all reasonable definitions of an appeal.  
17  
18

19 143. The suspension form was a form letter from Canyon High School  
20 Principal, DEFENDANT CRAIG ABERCROMBIE.  
21

22 144. The form further required a student signature acknowledgment that  
23 the student had been told why he was suspended and that he had been “given a  
24 chance to ask questions and explain [his] side of the story.” T.L. never signed this  
25 statement because the acknowledgement was not true.  
26  
27  
28

1           145. Moreover, any potential appeal would be futile as DEFENDANT  
2 GREG SMITH had already informed T.L. and his parents that additional  
3 unknown and yet-to-be-determined discipline was forthcoming 27 days later.  
4

5           146. On December 19, 2022 at 3:38 pm, DEFENDANT GREG SMITH  
6 responded to T.L.'s mother's email of December 16, 2022, requesting further  
7 information regarding the disciplinary process, appeal, and the SSP.  
8

9           147. On December 19, 2022, DEFENDANT GREG SMITH provided a  
10 single-page letter via e-mail from DEFENDANT OUSD stating that, *inter alia*,  
11 "Your child's school site has determined the nature of your child's offense is  
12 beyond that of a standard suspension. Therefore, your child will be referred to a  
13 Student Success Panel Hearing." There was no information whatsoever as to how  
14 that determination was made or the standards, if any, for making a referral to the  
15 SSP in the first place, what the referral was based upon, or what the process  
16 would entail.  
17  
18  
19  
20

21           148. In addition, the single-page letter stated that "[w]hen determining the  
22 best course of action for your child, the [SSP] will have the following  
23 considerations: 1) violation of the California Educational Code; 2) discipline and  
24 attendance history; 3) grade/current progress (as provided by current teachers);  
25 4) statements from school, students, witnesses, and parents; 5) responses from  
26 panel questions; and 6) interventions." *Id.*  
27  
28



1           149. Further, the single-page letter at the bottom stated that the “Student  
2 Success Panel Appeal Process” is as follows: “First Appeal: Executive Director,  
3 Student & Community Services. Second Appeal: Assistant Superintendent,  
4 Educational Services.” However, no further information was provided with  
5 respect to an appeal, and no information was provided about the procedures for  
6 the appeal.  
7

8  
9           150. Finally, the letter stated that the hearing date would be January 11,  
10 2023 at 10:00 a.m. Notably, this is contrary to the December 16, 2022, suspension  
11 letter that stated that T.L.’s first day “back at school will be 1/12/2023.”  
12

13  
14           151. T.L. was despondent, severely depressed, and fatalistic, if not  
15 potentially suicidal, by the sequence of events, the accusations against him, and  
16 the prospect of discipline that would expel him from his beloved high school and  
17 weighed effectively like the death penalty on his fourteen-year-old mental and  
18 emotional health.  
19

20  
21           152. In order to avoid an additional three weeks of emotional pain and  
22 anxiety over this mysterious process and Draconian punishment, on December  
23 21, 2022, T.L.’s mother again emailed DEFENDANT GREG SMITH and once  
24 again requested “any other guidance, other than the one-page letter that you  
25 provided to me from Mr. Angel, regarding the policies and procedures related to  
26 the ‘Panel’ process?” In addition, T.L.’s mother stated in the email that they had  
27  
28

1 searched everywhere online and could not find anything about the SSP. Further,  
2 she requested copies “of all the statements/evidence against [T.L.], including  
3 videos, audio, written statements, other findings” because [T.L.] and his family  
4 “remained in the dark about the specific allegations, complaints, and evidence  
5 used against him in the determinations to date.”  
6  
7

8 153. After receiving an out of office email response from DEFENDANT  
9 GREG SMITH, T.L.’s mother forwarded the email request to DEFENDANT  
10 CRAIG ABERCROMBIE and DEFENDANT HERIBERTO ANGEL requesting  
11 a response. Shortly thereafter, DEFENDANT GREG SMITH called T.L.’s  
12 mother. During the telephone conversation, DEFENDANT GREG SMITH  
13 informed T.L.’s mother that no further information or policies or procedures were  
14 available in writing regarding the SSP.  
15  
16  
17

18 154. In short, T.L. was informed of a four-day suspension on December  
19 15, 2022, and then informed four days later on December 19, 2022, that additional  
20 post-hoc discipline would be imposed nearly a month later by a mysterious panel  
21 called the SSP on January 11, 2023. Thus, an appeal of the discipline of the four-  
22 day suspension and violations was futile and premature as additional  
23 undetermined discipline was forthcoming.  
24  
25

26 155. T.L. was a starting freshman on the Canyon High School Varsity  
27 Soccer team. The Canyon High School Varsity Soccer team continued its regular  
28

1 league games and tournaments during the upcoming December winter break. It  
2 was mandatory for all varsity players to continue to attend practices five days a  
3 week, and games and tournaments. As a result of the December 15, 2022  
4 suspension, T.L.'s four-day suspension resulted in 27 additional days of  
5 suspension from the Canyon High School Varsity soccer team; suspension from  
6 19 Canyon High School Varsity soccer practices; suspension from the Canyon  
7 High School Varsity soccer alumni game; suspension from three Canyon High  
8 School Varsity soccer games in the NOCI Tournament; and suspension from five  
9 Canyon High School Varsity soccer league games.  
10  
11  
12

13  
14 156. In December, T.L.'s parents continued to insist on and demand access  
15 to the evidence against T.L. They were told that they could come into the office  
16 on January 10, 2023--one day before the SSP hearing, to view the evidence  
17 against T.L.  
18

19 157. On January 10, 2023, T.L.'s parents were shown the approximately  
20 three-minute surveillance video of T.L. and Student A walking on campus,  
21 However, DEFENDANT GREG SMITH refused to provide T.L.'s parents any of  
22 the evidence against T.L., including statements from any of the female fourteen-  
23 year-old students; text messages to or from any of the female fourteen-year-old  
24 students; e-mail from Student A's mother; a recording of T.L. and one of the  
25  
26  
27  
28

1 female fourteen-year-old students;<sup>3</sup> any other recording; and/or any other  
2 evidence.  
3

4 158. DEFENDANT GREG SMITH admitted that there was no other video  
5 surveillance evidence regarding any of the other allegations against T.L. Upon  
6 information and belief, no effort was made to identify any additional video  
7 surveillance. Further DEFENDANT GREG SMITH refused to provide T.L.'s  
8 parents with the video retention policy.  
9  
10

11 159. The draft statement from DEFENDANT GREG SMITH and  
12 DEFENDANT NORA ALVAREZ is rife with hearsay, uncorroborated  
13 statements, false statements, and statements that T.L. denied occurred.  
14

15 160. DEFENDANT GREG SMITH denied T.L.'s mother's request that  
16 the SSP hearing be recorded.  
17

18 161. DEFENDANT GREG SMITH denied T.L.'s mother's request to  
19 present live witnesses on behalf of T.L. Again, none of the underlying facts or  
20 statements were ever provided to T.L. and his parents. Thus, T.L. and his parents  
21 would have to give their best guess on what statements to present in the SSP  
22  
23

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24  
25 <sup>3</sup> DEFENDANT GREG SMITH indicated that he had the recording but refused to  
26 provide it to T.L.'s parents because he believed that it was obtained in violation of  
27 state law. Thus, DEFENDANT GREG SMITH admitted that that this female  
28 student had engaged in criminal code violations, but no criminal or disciplinary  
action was taken against this student.

1 hearing.

2 162. There is not a single reference to the SSP or its processes in the  
3 Canyon High School student handbook.  
4

5 163. There is not a single reference to the SSP or its processes in the  
6 DEFENDANT OUSD Board policies, including BP 5144.1(a) “Suspension and  
7 Expulsion/Due Process.”  
8

9 **D. The Student Success Panel Hearing**  
10

11 164. On January, 11, 2023, T.L. and his parents arrived at DEFENDANT  
12 OUSD’s offices.  
13

14 165. T.L. and his parents observed several other families attending the SSP  
15 panel before and after T.L.’s SSP hearing. T.L.’s parents were told that there were  
16 approximately 4-5 other SSP hearings that morning. All other individuals  
17 participating in an SSP hearing were Latinx and some had translators in  
18 attendance.  
19

20 166. In addition to T.L. and his parents, the SSP hearing was attended by  
21 three panelists (names unknown), who are administrators from other schools  
22 within the District; DEFENDANT GREG SMITH; DEFENDANT NORA  
23 ALVAREZ; a non-voting school psychologist (name unknown); and non-voting  
24 Sheldon Glass, the Coordinator for Student and Community Services.  
25  
26  
27  
28

1           167. During the SSP hearing, which lasted approximately 30-45 minutes,  
2 DEFENDANT GREG SMITH read his statement to the SSP.  
3

4           168. DEFENDANT GREG SMITH's presentation to the SSP panel  
5 contained numerous false and misleading hearsay statements that were never  
6 corroborated and are and were denied by T.L. He did not offer any other objective  
7 tangible evidence.  
8

9           169. DEFENDANT GREG SMITH's presentation to the SSP panel  
10 included false and coerced "confessions" from T.L. which could not have been a  
11 confession as T.L.'s statements were not based on any knowledge of the specific  
12 allegations against him.  
13  
14

15           170. DEFENDANT GREG SMITH's presentation to the SSP panel  
16 referenced and relied upon "evidence" that was never produced to the SSP panel  
17 or to the Plaintiff.  
18

19           171. DEFENDANT GREG SMITH's presentation to the SSP panel  
20 referenced evidence of a security video of T.L. and Female Student A, but he  
21 never showed it to the SSP and had it been shown, it would have depicted Female  
22 Student A voluntarily meeting up with T.L., the two fourteen-year-old students  
23 walking together, walking up a set of stairs together, and after a few minutes,  
24 walking down the stairs together and T.L. walking Female Student A back to  
25 class.  
26  
27  
28

1 172. DEFENDANT GREG SMITH'S presentation did not have a single  
2 reference to "sexual harassment," other than citation to the violation.  
3

4 173. DEFENDANT GREG SMITH'S presentation did not have a single  
5 reference to "sex," other than to the citation of the violation.  
6

7 174. DEFENDANT GREG SMITH'S statement did not have a single  
8 reference to "sexual contact."  
9

10 175. DEFENDANT GREG SMITH did not present a single live witness  
11 and the redacted statements are not only hearsay, every single statement used  
12 against T.L. involved a single incident with each girl where there was mutual  
13 interest and friendship; the span of the incidents took place over the course of four  
14 months if not years; and not a single statement from any of the females  
15 corroborates any purported allegations from any other female student.  
16  
17

18 176. DEFENDANT GREG SMITH'S presentation did have references to  
19 T.L. *requesting or asking* to kiss other female fourteen-year-old students.  
20

21 177. However, DEFENDANT GREG SMITH'S presentation does not  
22 have a single reference to T.L. actually kissing any of the female fourteen-year-  
23 old students, without their consent, because no interaction ever occurred.  
24

25 178. DEFENDANT GREG SMITH'S presentation packet to the SSP  
26 included an "Evidence" subheading and included "1. video: Canyon High School  
27  
28

1 security cameras; 2. Screen recording: text messages with STUDENT-A;  
2 3. Screen recording: text messages with STUDENT-C; and 4. Screen recording:  
3 text messages with STUDENT-E.” However, none of these pieces of evidence  
4 was ever shown to the SSP and other than the brief viewing of the video to  
5 T.L.’s parents on January 10, 2023, T.L. and his parents were never given access  
6 to any of the other items labeled “evidence.”  
7  
8

9  
10 179. Upon information and belief, DEFENDANT GREG SMITH falsely  
11 referenced these pieces of “evidence” as corroborative of his findings, but failed  
12 to produce them because they in fact do not support his findings and are  
13 exculpatory. Moreover, DEFENDANT GREG SMITH did not reference in his  
14 statement to the SSP and failed to produce further exculpatory evidence related to  
15 audio recordings of an interaction between Student DOE and T.L., in addition to  
16 the fact that it provides evidence of the recording student’s criminal violations of  
17 Ca. Penal Code § 632.  
18  
19  
20

21 180. During the hearing, and notwithstanding the lack of a single  
22 guideline, procedure or policy regarding the SSP process, through tears and sobs,  
23 T.L. read a statement to the SSP; then T.L.’s mother read a statement; and then  
24 T.L.’s parents read the following supportive statements from: T.L.’s treating  
25 therapist (who was retained as a result of the deep depression and negative  
26  
27  
28



1 ideations that occurred as a result of the sexual harassment charges and  
2 suspension); T.L.'s Canyon High School Varsity soccer coach; and T.L.'s family  
3 friend who is a licensed therapist and has known T.L. and his family for over 35  
4 years. These statements in support of T.L. by adults and mental health  
5 professionals were ignored, not considered by the SSP, and given less weight than  
6 the compelled and uncorroborated hearsay statements of fourteen-year-old girls,  
7 most of whom did not voluntarily make any complaints against T.L. or even  
8 provide any statements alleging sexual harassment.  
9  
10  
11

12  
13 181. The SSP then went into a secret closed-door session for  
14 approximately 30 minutes. T.L. and his parents were escorted to another room  
15 and waited for the decision. T.L. and his parents were verbally informed, through  
16 Sheldon Glass, that the SSP had voted to impose further discipline on T.L. by  
17 expelling him from Canyon High School and placing him at another high school,  
18 Villa Park, for a semester.  
19  
20

21 182. The SSP did not provide anything in writing regarding or supporting  
22 their findings or decision. To date, nothing has been provided by or from the SSP.  
23

24 183. Although never provided by the SSP, if all of the "considerations"  
25 that should have been taken into consideration, in accordance with the single page  
26 document provided to Plaintiff, actually were taken into due consideration they  
27  
28

1 would have inured in favor of T.L. and not in favor of expulsion or “involuntary  
2 placement”<sup>4</sup> at another school: 1) violation of the California Educational Code; 2)  
3 discipline and attendance history; 3) grade/current progress (as provided by  
4 current teachers); 4) statements from school, students, witnesses, and parents; 5)  
5 responses from panel questions; and 6) interventions.”  
6  
7

8 a. Cal. Ed Violations: Contrary to the DEFENDANT OUSD’s own  
9 board policy BP 5144(a), “Disciplinary measures that may result  
10 in loss of instructional time or cause students to be disengaged  
11 from school, such as detention, suspension, and expulsion, shall be  
12 imposed only when required by law or when other means of  
13 correction have been documented to have failed.” (Education  
14 Code 48900.5). T.L. was never informed that any of these female  
15 peers were made “uncomfortable,” let alone sexually harassed.  
16 Thus, there were never any other means of correction prior to this  
17 “involuntary placement” by the SSP. Moreover, according to  
18 OUSD Board policy, the Superintendent’s strategies “shall reflect  
19  
20  
21  
22  
23

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24  
25 <sup>4</sup> Throughout this process, OUSD and its representatives have referred to T.L.’s  
26 expulsion from Canyon High School as “involuntary placement” in an effort to  
27 semantically avoid due process requirements for “expulsions.” The Defendants use  
28 euphemisms, such as “Student Success Panel” and “involuntary placement,” to  
avoid their constitutional obligations.

1 the Board's preference for the use of positive interventions and  
2 alternative disciplinary measures over exclusionary discipline  
3 measures as a means of correcting student misbehavior." T.L. was  
4 never given any alternative disciplinary measures, warnings, or  
5 interventions prior to the SSP's "involuntary placement" and in  
6 fact his pending four-day suspension was increased to an SSP for  
7 "further discipline" while his four-day suspension was pending.  
8

9 Moreover, as outlined throughout this Complaint, Defendants  
10 failed to establish, let alone set forth a factual basis, for sexual  
11 harassment in accordance with Ca. Educ. Code § 48900.2 and  
12 Section 212.5. Finally and importantly, DEFENDANT  
13 HERIBERTO ANGEL dropped the 48900(a)(2) violation after the  
14 so-called first appeal, without any explanation or information.  
15

- 16 b. Discipline and Attendance History: T.L. had no prior similar  
17 discipline history or complaints from other female students. His  
18 disciplinary record comprised of one notation from elementary  
19 school for getting out of his seat at lunchtime; one notation from  
20 middle school for an altercation with two boys who were throwing  
21 a water bottle at him, and he was assigned five lunch detentions;  
22 and one note from high school for talking too much in math class  
23  
24  
25  
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28

1 and 3-hour detention. T.L.'s attendance record reflected 1  
2 unexcused absence and 0 tardies.

3  
4 c. Grade/current progress (as provided by current teachers): For  
5 T.L.'s first semester in high school and as of January 2023, T.L.'s  
6 grades were As and Bs. Five of T.L.'s teachers provided a current  
7 student evaluation with a scale of Excellent, Good, Average, or  
8 Poor, and in areas regarding substantive class work, behavior and  
9 attitude. From his Sports Medicine teacher, T.L. received 7/8  
10 "Good" ratings and one Average. From his biology teacher, T.L.  
11 received 3/8 "Good" ratings, 4/8 "Average" ratings and 1/8 "Poor"  
12 rating for test performance/projects; notably, he had a B+ at the  
13 time of this rating. From his Spanish II teacher, T.L. received 4/8  
14 "Good" ratings and 4/8 "Average" ratings. From his English  
15 teacher, T.L. received 7/8 "Good" ratings and 1/8 "Average"  
16 rating. Finally, from his Math teacher, T.L. received 6/8 "Good"  
17 ratings and 2/8 "Average" ratings. In short, T.L.'s GPA was above  
18 a 3.0 and was a good student academically and behaviorally. He  
19 was an honor roll student for all of his prior semesters in middle  
20 school.  
21  
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1 d. Statements from school, students, witnesses, and parents: While  
2 the DEFENDANT GREG SMITH and DEFENDANT NORA  
3 ALVAREZ presented inaccurate statements and statements based  
4 on hearsay and intimidations from fourteen-year-old female  
5 students who were required to write statements regarding any and  
6 all interactions with and against T.L., including “uncomfy”  
7 situations and touches on the arm. T.L. provided a multi-page  
8 statement, his parents provided a multi-page statement, T.L.’s  
9 varsity coach provided a statement in support of T.L., his treating  
10 therapist provided a statement, and another behavioral therapist  
11 who has known T.L. for his entire life provided a lengthy letter.  
12 Nevertheless, it is unknown what, if anything, the SSP relied upon.  
13 The statements from the fourteen-year-old females in all their  
14 deficiencies and lack of substantive allegations were given greater  
15 and undue weight by the SSP than unimpeachable adults, their  
16 own employee, and mental health professionals. Again,  
17 DEFENDANT GREG SMITH prohibited T.L. from presenting  
18 any live witnesses at the hearing and T.L. was never given any  
19 other information regarding the parameters of the SSP hearing.  
20  
21  
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28 e. Responses from panel questions: Again, although its unclear what

1 the SSP relied upon, if anything, regarding their decision. The SSP  
2 panel's questions were limited and did not involve any questions  
3 about alternatives, his therapy treatment, or other interventions.  
4

5 f. Interventions: None.  
6

7 184. In short, *if* there was an SSP policy or procedure that actually required  
8 the SSP to take into consideration the items that were listed in the SSP letter, the  
9 SSP violated such unwritten policy or procedure. The considerations listed—but  
10 ignored--overwhelmingly inured in T.L.'s favor and against expulsion and  
11 "involuntary placement."  
12

13  
14 **E. The First "Appeal"**<sup>5</sup>

15 185. A few minutes after Mr. Glass verbally informed them of the SSP's  
16 "decision," and T.L.'s parents asked about the appeals process again, Mr. Glass  
17 stated that they could speak to the Executive Director of OUSD, DEFENDANT  
18 HERIBERTO ANGEL. Within a few minutes of being given verbal notice of the  
19 SSP decision, T.L. and his parents were escorted into DEFENDANT  
20  
21 HERIBERTO ANGEL'S office. T.L. and his parents were surprised that this was  
22  
23  
24

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25 <sup>5</sup> Plaintiff does not concede that the actions that took place after the SSP constitute  
26 a "first appeal" but it outlines the actions that were taken after the SSP  
27 determination. To date, there has been no information provided regarding the  
28 appeal process.

1 the “appeal” process.

2 186. With no choice and no guidance on an appeal process, and within  
3 minutes of the SSP’s “decision” (without any findings or information whatsoever  
4 other than their verbal determination to involuntarily place T.L. at another school  
5 for a semester) T.L. and his parents repeated their statements that were made to  
6 the SSP, reiterating the lack of process and fairness; stating that the violations  
7 against T.L. were unsound and unanchored in any credible facts or legal basis;  
8 and repleading that the entire disciplinary process was procedurally and  
9 substantively defective.  
10

11 187. T.L. and his parents were in the dark about the substance of any  
12 appeal, let alone the process for appeal, because no substantive information was  
13 provided to T.L. and his parents about the SSP’s decision, the basis for their  
14 decision, or how the considerations were viewed.  
15

16 188. Again, in the absence of any procedural guidance, DEFENDANT  
17 HERIBERTO ANGEL indicated that he would review the matter and respond to  
18 them later that day or no later than the next morning.  
19

20 189. DEFENDANT HERIBERTO ANGEL repeatedly erroneously  
21 claimed that T.L. was required to withdraw from Canyon High School “in order”  
22 to proceed with ANY appeal. This is contrary to fundamental concepts of  
23  
24  
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1 “appeal,” as the expulsion and “involuntary transfer” discipline by the SSP was  
2 the very decision that was being appealed! Not to be deterred, DEFENDANT  
3 HERIBERTO ANGEL insisted on multiple occasions that T.L. would “have to  
4 withdraw” from school at Canyon High School pending his appeal. Whether T.L.  
5 formally withdrew from Canyon High School or not, it was clear that T.L. would  
6 not be allowed to enter the grounds of Canyon High School. Thus, T.L. did not  
7 attend school for a total of eleven (11) days of educational instruction.  
8  
9  
10

11 190. Having not heard anything on January 11, 2023, on January 12, 2023  
12 at 7:12 a.m. T.L.’s mother emailed DEFENDANT HERIBERTO ANGEL and  
13 requested an update stating: “We are eager to hear a response or status update  
14 form [sic] the District as yesterday was [T.L.’s] last day of the 4 day suspension.”  
15  
16

17 191. DEFENDANT HERIBERTO ANGEL responded at 8:11 am and  
18 stated that he was still reviewing the matter and would respond “shortly.”  
19

20 192. A few hours later on January 12, 2023, DEFENDANT HERIBERTO  
21 ANGEL called T.L.’s mother and informed her that he was: 1) upholding the  
22 SSP’s decision to expel T.L.; but 2) that he was simultaneously withdrawing the  
23 “willful force” violation under Ed. Code 48900(a)(2). No written or verbal  
24 explanation or findings were ever provided.  
25

26 193. DEFENDANT HERIBERTO ANGEL stated during the telephone  
27  
28



1 call that Female Student A’s mother was “involved,” and the District was under  
2 pressure to act on her behalf.  
3

4 194. During this telephone call with DEFENDANT HERIBERTO  
5 ANGEL, T.L.’s mother requested further information regarding the second appeal  
6 process, particularly since they had not been given any information related to the  
7 process. DEFENDANT HERIBERTO ANGEL responded that the District would  
8 have to “get back” to her about the next steps and the second appeal. Upon  
9 information and belief, there were no policies or procedures in place for the  
10 second level of appeal either.  
11  
12  
13

14 195. Further, during this telephone call, DEFENDANT HERIBERTO  
15 ANGEL again informed T.L. and his parents that T.L. would “have to withdraw”  
16 from Canyon High School immediately and attend the other high school to which  
17 the SSP expelled him. T.L.’s mother informed DEFENDANT HERIBERTO  
18 ANGEL that was procedurally unsound and legally defective because an appeal,  
19 by definition, requires the abeyance of any discipline or punishment pending the  
20 outcome of the appeal. DEFENDANT HERIBERTO ANGEL erroneously  
21 disagreed and claimed that it was not possible for T.L. to continue to be enrolled  
22 at Canyon High School, regardless of any appeal process and that he would have  
23 to withdraw from Canyon High School.  
24  
25  
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1           196. T.L.'s mother reiterated that the "appeal" process was nonsensical  
2 and informed DEFENDANT HERIBERTO ANGEL that she would not be  
3 withdrawing T.L. from Canyon High School and that DEFENDANT OUSD was  
4 in violation of the state compulsory education requirements—as it was now the  
5 end of the 5<sup>th</sup> day of his original 4-day suspension.  
6  
7

8           197. On January 12, 2023, T.L.'s mother sent OUSD a formal Public Acts  
9 Request under Govt. Code §§ 6250 et seq.; a Letter of Preservation; and a Letter  
10 requesting further details and explanation regarding the disciplinary process, the  
11 SSP, the appeal rights, and written findings.  
12  
13

14           198. After the close of business on January 12, 2023, at 5:33 pm,  
15 DEFENDANT HERIBERTO ANGEL emailed T.L.'s mother and continued to  
16 insist that T.L. would need to withdraw from Canyon High School immediately,  
17 notwithstanding any appeals.  
18

19           199. On Monday January 16, 2023, T.L.'s mother responded to  
20 DEFENDANT HERIBERTO ANGEL's email and provided the following  
21 response:  
22

23           Per your email below, requiring our son to withdraw from Canyon  
24 High School in order to receive alternative educational  
25 accommodations during our appeal is neither legal nor appropriate.  
26 As I stated to you on numerous occasions, because we are  
27 appealing the OUSD's decision to expel [T.L.] from Canyon High  
28 School (aka placement), imposition of his punishment  
and requiring him to "withdraw" from Canyon as a prerequisite to

1 obtaining alternative sufficient educational measures is procedurally  
2 and substantively defective, as well as nonsensical. Once again,  
3 we request that you hold the imposition of such expulsion  
4 punishment in abeyance pending all administrative appellate rights  
5 and provide an alternative educational measure pending the appeal.  
6 As you also know, we have not received any further information  
7 about the second appeal meeting, its procedures, a hearing date, etc.

8 As you know, tomorrow will be the 7th school day from which  
9 [T.L.] has not been provided educational measures, which is three  
10 days beyond his suspension (and two days beyond the maximum 5  
11 day suspension allowed under Ca. Ed. Code Section 48911).

12 We urge the OUSD to resolve these procedural and substantive  
13 deficiencies with speed and immediate attention.

14 200. Having received no response, on January 17, 2023, at 9:29 pm, T.L.'s  
15 mother once again sent another email to DEFENDANT HERIBERTO ANGEL  
16 informing him that T.L. and his parents had still not received any information  
17 about the second appeal and requested a response as soon as possible.

18 201. After the close of business on January 18, 2023, at 5:36 pm, and  
19 seven days *after* upholding the SSP's unwritten and baseless decision,  
20 DEFENDANT HERIBERTO ANGEL provided written correspondence and  
21 informed T.L. and his parents that he "reviewed the evidence and the [SSP]  
22 determination, and agree that to best provide a positive school climate and  
23 appropriate learning environment for all students, [T.L.] will be assigned to a  
24 different learning environment, not Canyon High School. You may appeal this  
25  
26  
27  
28

1 decision to [DEFENDANT DAVID RIVERA]. This appeal meeting is scheduled  
2 for Friday, January 20, 2023, at 9:00 a.m. in the District’s Conference Room B. In  
3 the interim, the decision will be implemented and [T.L.] is not to return to Canyon  
4 High School.”  
5

6  
7 202. Thus, T.L. and his parents were provided a written letter from  
8 DEFENDANT HERIBERTO ANGEL denying their purported “appeal” after  
9 close of business of the 7<sup>th</sup> day after the SSP hearing and purported first appeal.  
10

11 203. Moreover, although DEFENDANT HERIBERTO ANGEL refers to  
12 “review” of the SSP determination, there has been no written SSP determination  
13 ever provided to T.L. or his parents. In addition, DEFENDANTS continue to  
14 insist in form and function that an appeal does not qualify as an appeal.  
15

16  
17 204. Once again, DEFENDANT HERIBERTO ANGEL insisted that T.L.  
18 would have to withdraw from school.  
19

20 205. Other than the date and location of the “second level appeal” there  
21 was no further information provided regarding the procedures, policies, or  
22 guidelines related to the second appeal.  
23  
24  
25  
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**F. The Second “Appeal”<sup>6</sup>**

206. With no information regarding the second level of appeal, T.L. and his parents attended the “second level appeal meeting” on January 20, 2023, with DEFENDANT DAVID RIVERA at 9:00 am.

207. T.L. and his parents arrived 10 minutes before 9:00 am at the DEFENDANT OUSD offices.

208. DEFENDANT DAVID RIVERA was 10 minutes late and he escorted T.L. and his parents to a meeting room around 9:10 am.

209. At or around 9:15 am DEFENDANT DAVID RIVERA stated that T.L. and his parents “needed to wait for DEFENDANT HERIBERTO ANGEL.”

210. T.L.’s mother inquired as to the necessity for delay and waiting for DEFENDANT HERIBERTO ANGEL, particularly because he was the decisionmaker in denying the purported first appeal.

211. DEFENDANT DAVID RIVERA insisted that it was “protocol” to have the first level appeal decisionmaker attend the second level appeal meeting. Accordingly, the parties would have to wait for DEFENDANT HERIBERTO

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<sup>6</sup> Plaintiff does not concede that the actions that took place after the “first appeal” constituted a “second appeal” but it outlines the actions that were taken after Defendant Heriberto Angel referred Plaintiff to Defendant David Rivera. To date, there has been no information provided regarding the appeal process.

1 ANGEL'S arrival and attendance to begin.

2 212. T.L.'s mother inquired about said protocols as this was the first time  
3 that anyone had referenced protocols related to the appeal process. Again, she  
4 requested a copy of these protocols, as requests for any written documents  
5 regarding procedures, protocols and policies had gone unanswered to date.  
6  
7

8 213. DEFENDANT DAVID RIVERA stated that he would see about  
9 providing them to T.L. and his parents. To date, no such protocols have been  
10 produced to T.L. or his parents.  
11

12 214. At approximately 9:23 am, DEFENDANT DAVID RIVERA took a  
13 phone call outside the meeting room and then returned and informed T.L. and his  
14 parents that the parties could proceed with the meeting.  
15

16 215. T.L.'s mother inquired whether that was appropriate given  
17 DEFENDANT DAVID RIVERA's previously stated "protocols" requiring  
18 DEFENDANT HERIBERTO ANGEL'S attendance.  
19  
20

21 216. DEFENDANT DAVID RIVERA proceeded without DEFENDANT  
22 HERIBERTO ANGEL'S attendance, notwithstanding contrary stated protocols.  
23

24 217. Without any guidance on the second appeal procedures, T.L. and  
25 T.L.'s parents proceeded to communicate the unfairness of the process and the  
26 absence of any procedures and even any substantive findings.  
27  
28

1           218. DEFENDANT DAVID RIVERA inquired whether any interventions  
2 had previously been offered and T.L. and his parents confirmed that none had  
3 been offered or provided. DEFENDANT DAVID RIVERA stated that he had  
4 daughters and sympathized with his female daughters with respect to any sexual  
5 harassment claims.  
6

7  
8           219. DEFENDANT DAVID RIVERA and T.L. and his parents met for  
9 approximately 35 minutes. At the conclusion DEFENDANT DAVID RIVERA  
10 stated that he would respond the following week.  
11

12           220. Upon information and belief, DEFENDANT DAVID RIVERA had  
13 never participated in a second level appeal process and was completely unaware  
14 of any procedures, standards, and protocol for the appeal.<sup>7</sup>  
15

16           221. Given that T.L. remained out of school because of DEFENDANTS'  
17 requirement that T.L. withdraw from school pending his appeal, a response the  
18 following week was too late. At this point, DEFENDANT T.L. had been  
19 prohibited from attending school for *eleven* school days.  
20  
21  
22

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23 <sup>7</sup> DEFENDANT CRAIG ABERCROMBIE was intended to be the second level  
24 appeal, as he had been recently appointed to be the Acting Superintendent, after the  
25 OUSD School Board fired the Superintendent and Assistant Superintendent in  
26 December 2022. However, DEFENDANT CRAIG ABERCROMBIE was the  
27 Principal at Canyon High School during the investigation involving T.L. and the  
28 decisionmaker to require T.L. to arbitrarily and unlawfully proceed to SSP. Thus,  
he was “recused” from the appeal process.

1           222. On January 20, 2023, T.L.’s parents made an offer for the  
2 DEFENDANTS to resolve and complete the nightmare that T.L. and his family  
3 were living by providing the following: overruling the SSP, removing the sexual  
4 harassment violation from his record, and, in exchange, T.L. would withdraw  
5 from the District.  
6

7  
8           223. DEFENDANT DAVID RIVERA did not respond on January 20,  
9 2023. Instead, DEFENDANT DAVID RIVERA sent a letter on January 25, 2023,  
10 upholding the SSP’s decision (again nothing in writing from the SSP to this point  
11 or to date).  
12

13  
14           224. Further, in an egregious form of retaliation for the “appeal,”  
15 DEFENDANT DAVID RIVERA, on behalf of DEFENDANT OUSD, found for  
16 the first time—without any reference or support in the record whatsoever—that  
17 T.L.’s “presence at Canyon High School is a continuing danger to Canyon’s  
18 [female] students.”  
19

20  
21           225. Notwithstanding this blatant retaliatory and baseless finding, if such a  
22 finding was applicable, sending T.L. to another school with just as many female  
23 students merely highlights the preposterous nature of these escalating and  
24 retaliatory findings.  
25

26           226. Moreover, DEFENDANT DAVID RIVERA continued to retaliate  
27  
28



1 with impunity by also finding—without any support whatsoever—that T.L.  
2 “engaged in forcible attempts to kiss and touch the intimate parts of at least six  
3 Canyon High School students during the school day.”  
4

5 227. There is not a single female that was kissed without consent, let alone  
6 forcibly kissed.  
7

8 228. There was no credible evidence that T.L. engaged in forcible attempts  
9 to touch any intimate parts of any girls, let alone six students!  
10

11 229. DEFENDANT DAVID RIVERA also failed to reconcile  
12 DEFENDANT HERIBERTO ANGEL’s previous dismissal of the willful force  
13 violation. DEFENDANT DAVID RIVERA neglected to identify or (re)count any  
14 of the evidence that six females alleged that T.L. made “forcible” attempts to  
15 touch their “intimate” body parts. DEFENDANT DAVID RIVERA’s findings  
16 are vile and abusive.  
17  
18

19 230. DEFENDANT DAVID RIVERA’s statements are patent lies, wholly  
20 unsupported and unsubstantiated by the record or any prior verbal or written  
21 findings by any DEFENDANTS, contrary to DEFENDANT HERIBERTO  
22 ANGEL’s previous dismissal of any willful force, and clearly intended to retaliate  
23 against T.L. for exercising his First Amendment appeal rights.  
24  
25

26 231. DEFENDANT DAVID RIVERA failed to provide a single fact in  
27  
28

1 support or justification of his retaliatory findings.

2  
3 232. T.L.'s actions, singularly or combined, did not rise to the level sexual  
4 harassment, as defined by Ca. Ed. Code §§ 48900.2 and 212.5.

5  
6 233. There is no reference or finding whatsoever throughout the  
7 disciplinary process, including the purported two appeals, by any of the  
8 DEFENDANTS, nor in any of DEFENDANTS' documents that:

- 9  
10 a. T.L.'s actions, singularly or combined, were sufficiently severe or  
11 pervasive to have had a negative impact on any female's  
12 individual academic performance in accordance with Ca. Ed.  
13 Code § 48900.2;  
14  
15 b. T.L.'s actions were sufficiently severe or pervasive to create an  
16 intimidating, hostile or offensive education environment in  
17 accordance with Ca. Ed. Code § 48900.2;  
18  
19 c. T.L. was in a position of authority and/or power over his  
20 fourteen-year-old female peers and classmates;  
21  
22 d. T.L. made submission to any conduct an explicit or implicit term  
23 or a condition of any of his fourteen-year-old female peers and  
24 classmates' academic status or progress, as outlined in Ca. Ed.  
25 Code § 212.5(a);  
26  
27  
28

- e. T.L. made submission to, or rejection of any conduct a basis of academic decisions affecting any of his fourteen-year-old female peers and classmates, as outlined in Ca. Ed. Code § 212.5(b);
- f. T.L.'s conduct had the purpose or effect of having a negative impact upon any of his fourteen-year-old female peers and classmates' work or academic performance, as outlined in Ca. Ed. Code § 212.5(c);
- g. T.L.'s conduct had the purpose or effect of creating an intimidating, hostile, or offensive educational environment for any of his fourteen-year-old female peers and classmates, as outlined in Ca. Ed. Code § 212.5(c);
- h. T.L. made submission to, or rejection of, his conduct as a basis for any decision affecting any of his fourteen-year-old female peers and classmates' benefits and services, honors, programs, or activities available at or through the educational institution, as outlined in Ca. Ed. Code § 212.5(d); or
- i. T.L. was provided any other means or alternatives of correction prior to expulsion and removal from Canyon High School by the SSP, in accordance with Ca. Ed. Code § 48900.5(b).

1           234. There is no reference or finding whatsoever throughout the  
2 disciplinary process, until the retaliatory findings and statements by  
3  
4 DEFENDANT DAVID RIVERA, that T.L. presented a danger to any person, in  
5 accordance with Ca. Ed. Code § 48900.5.

6  
7           235. This was T.L.’s first offense, in accordance with Ca. Ed. Code  
8 § 48900.5.

9  
10           **G. Disciplinary Data**

11           236. Upon information and belief, OUSD’s categorization of “involuntary  
12 placement” by the SSP is a mechanism by which students of color are placed into  
13 a quasi-expulsion status, in order to avoid state laws requiring reporting of race  
14 and ethnicity disciplinary data. Plaintiff requested specific data related to the  
15 DEFENDANT OUSD’s SSP data before, during, and after the disciplinary  
16 process implemented against T.L., as well as in subsequent Public Records Act  
17 requests. On May 15, 2023, DEFENDANT OUSD provided limited data  
18 regarding SSP. However, race and ethnicity data are missing and despite multiple  
19 requests for race and ethnicity data, none have been provided to date.

20  
21           237. Neither OUSD’s policies and procedures nor the state education  
22 regulations provide the basis for determining when a child is subject to the  
23 OUSD-specific SSP process, how the SSP process is implemented, and/or the  
24 definition of or process for “involuntary placement.”  
25  
26  
27  
28

1           238. Based on DEFENDANT OUSD's public data, the district's student  
2 population is 26,000 and the demographic data is as follows: 23.7% are White,  
3 57.7% are Hispanic; 9.9% Asian; 2.3% Filipino; and 1.3% Black.<sup>8</sup>

4  
5           239. Canyon High School and Villa Park are the two of the five high  
6 schools in OUSD with the highest concentrations of white students.  
7

8           240. Canyon High School has approximately 2,253 students and the  
9 demographic student data is as follows: 46.3% White, 22.9% Hispanic, 19.5%  
10 Asian, 2.7% Filipino, and 1.6% Black.<sup>9</sup>

11  
12           241. Villa Park High School has approximately 2,116 students and the  
13 demographic student data is as follows: 50.4% Hispanic, 33.1% White, 10.1%  
14 Asian, 2.2% Filipino, and 1% Black.<sup>10</sup>

15  
16           242. Publicly available data for years 2014-2022 and excluding 2020-2021  
17 data due to COVID, provides the following:<sup>11</sup>

- 18  
19           a. For Orange Unified School District, including all of its high  
20 schools, Black students were suspended at over 2.6 times the rate  
21 of white students. This disparate impact was statistically  
22 significant at 5.7 units of standard deviation. The probability of  
23  
24  
25

26 <sup>8</sup> <https://www.orangeusd.org/about-us>.

27 <sup>9</sup> <https://www.canyonhighschool.org/about>

28 <sup>10</sup> <https://www.villaparkhigh.org/about/school-profile>

<sup>11</sup> <https://www.ed-data.org/county/orange/>

1 this deviation occurring by chance is less than 1-in-70 million.

2 b. At Canyon High School, Black students were suspended over 3  
4 times the rate of white students. This disparate impact was  
5 statistically significant at above 4 units of standard deviation. The  
6 probability of this deviation occurring by chance is less than 1-in-  
7  
8 a million.<sup>12</sup>

9 c. At Villa Park High School, Black students were suspended over  
10  
11 3.6 times the rate of white students. This disparate impact was  
12 statistically significant at above 6.5 units of standard deviation.<sup>13</sup>  
13  
14 The probability of this deviation occurring by chance is less than  
15 1-in-a billion.

16 d. For Orange Unified School District, including all of its high  
17  
18 schools, Hispanic students were suspended at nearly 2.3 times the  
19  
20 rate of white students. This disparate impact was statistically  
21  
22 significant at above 10.4 units of standard deviation. The  
23  
24 probability of this deviation occurring by chance is less than 1-in-  
25 a billion.

---

26 <sup>12</sup> In 2019/20, Black students were suspended over 7.3 times the rate of white  
27 students.

28 <sup>13</sup> In years 2015/16, 2016/17, 2018/19, 2019/20, the suspension rates were 6, 3.5,  
2.8, 3.4 and 8.4 times more likely than white students, respectively.

1 e. At Canyon High School, Hispanic students were suspended at 2  
2 times the rate of white students. This disparate impact was  
3 statistically significant at nearly 5.5 units of standard deviation.<sup>14</sup>

4 Similar to the school district results, this result is nearly  
5 impossible to have occurred by chance. The probability of this  
6 deviation occurring by chance is less than 1-in-25 million.  
7

8 f. At Villa Park High School, Hispanic students were suspended  
9 over 1.7 times the rate of white students. This disparate impact  
10 was statistically significant at 7.9 units of standard deviation.<sup>15</sup>

11 The probability of this deviation occurring by chance is less than  
12 1-in-a billion.  
13

14 243. OUSD's limited SSP data indicates that in 2019/2020, the OUSD  
15 "involuntarily placed" 88 students to another school in the district under the SSP  
16 process: 12 from Canyon High School; 2 from Community Day School; 25 from  
17 El Modena High School; 24 from Orange High School; 7 from Richland  
18 Continuation High School; and 18 from Villa Park High School.  
19  
20  
21  
22  
23  
24

25 <sup>14</sup> In years 2016/17, 2017/18, 2019/20, 2021/22, Hispanic students were suspended  
26 2.2, 2.8, 2, and 2.2 times the rate of white students, respectively.

27 <sup>15</sup> In years 2014/15, 2015/16, 2016/17, 2018/19, 2021/22, Hispanic students were  
28 suspended 1.7, 2.1, 2.2, 1.7, 3.3, and 2.4 times the rate of white students,  
respectively.

1           244. For 2019/2020, although less than 1% of these students subject to SSP  
2 came from OUSD's alternative high school, Community Day School, 16% of the  
3 student placements were sent to Community Day School.<sup>16</sup> Community Day  
4 School serves grades 7-12, has 38 students, and is 71% Latino and 3% Black.  
5

6           245. Upon information and belief, OUSD's limited SSP data indicates that  
7 in 2021/2022, the OUSD "involuntarily placed" 65 students to another school in  
8 the district under the SSP process: 8 from Canyon High School; 12 from El  
9 Modena High School; 27 from Orange High School; 7 from Richland  
10 Continuation High School; and 11 from Villa Park High School. Notably,  
11 2021/2022 data indicates that 38 students from OUSD middle schools and 2  
12 students from OUSD elementary schools were also "involuntarily placed" through  
13 the SSP process.  
14

15           246. Upon information and belief, OUSD's limited SSP data indicates that  
16 in 2022/2023, the OUSD "involuntarily placed" 44 students to another school in  
17 the district under the SSP process: 8 from Canyon High School; 18 from El  
18 Modena High School; 12 from Orange High School; 0 from Richland  
19 Continuation High School; and 6 from Villa Park High School. Notably,  
20  
21  
22  
23  
24  
25

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27 

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<sup>16</sup> Community Day School data was not provided for 2021/2022 and 2022/2023  
28 data.



1 2022/2023 data indicates that 45 students from OUSD middle schools and 7  
2 students from OUSD elementary schools were also “involuntarily placed” through  
3 the SSP process.  
4

5 247. T.L.’s SSP panel occurred on a day when 4-5 other SSP’s were  
6 occurring and all other students subject to SSP were students of color.  
7

8 248. All of the purported SSP data was incomplete and did not include  
9 race/sex/ethnicity data, notwithstanding initial and repeated requests for such data.  
10 Upon information and belief, the SSP data would, at a minimum be consistent  
11 with the public disciplinary data and likely reflect more significant racial and  
12 ethnic disparities regarding the students subject to SSP; the violations subject to  
13 the SSP; the outcome of the SSP; the schools from which the students originate;  
14 the schools at which the students are “involuntarily placed;” appeals processes, if  
15 any; and return, if applicable.  
16  
17  
18

#### 19 **H. Injuries and Damages**

20

21 249. Each of the acts throughout this Complaint by each Defendant  
22 directly and proximately caused Plaintiff to suffer the following: violation of civil  
23 rights; loss of freedom from unreasonable detention; loss of freedom to move  
24 about; loss of education; damage to reputation; loss of privacy; intrusion upon  
25 seclusion; emotional distress, including pain and suffering, humiliation, stress,  
26  
27  
28

1 anxiety, and extreme mental anguish and confusion, including but not limited to:

- 2
- 3 a. DEFENDANT OUSD, through and including DEFENDANT
- 4 GREG SMITH's actions on December 15, 2022, during the over
- 5 two-hour interrogation of T.L., including threats, intimidation,
- 6 coercion, false statements, and inquiries regarding sexual abuse at
- 7 home.
- 8
- 9
- 10 b. DEFENDANT OUSD, through and including DEFENDANT
- 11 GREG SMITH's actions on December 15, 2022, after the over
- 12 two-hour interrogation of T.L.
- 13
- 14 c. DEFENDANT OUSD, through and including DEFENDANT
- 15 NORA ALVAREZ's actions on December 15, 2022, during the
- 16 over two-hour interrogation of T.L. including threats,
- 17 intimidation, coercion, false statements, inquiries regarding
- 18 sexual abuse at home, and improper, if not abusive, information
- 19 and sexual innuendo regarding DEFENDANT ALVAREZ's
- 20 sexual activity with her husband.
- 21
- 22
- 23
- 24 d. DEFENDANT OUSD, through and including DEFENDANT
- 25 NORA ALVAREZ's actions on December 15, 2022, after the
- 26 over two-hour interrogation of T.L.
- 27
- 28 e. DEFENDANT OUSD, through and including DEFENDANT
- CLASS ACTION COMPLAINT FOR DAMAGES

1 GREG SMITH, DEFENDANT NORA ALVAREZ, and  
2 DEFENDANT CRAIG ABERCROMBIE for the suspension of  
3 T.L. for sexual harassment and willfully using force.  
4

5 f. DEFENDANT OUSD, through and including DEFENDANT  
6 GREG SMITH, DEFENDANT NORA ALVAREZ, and  
7 DEFENDANT CRAIG ABERCROMBIE for the  
8 “determination” to proceed to additional discipline for T.L.  
9 through the SSP.  
10

11 g. DEFENDANT OUSD, through and including DEFENDANT  
12 GREG SMITH, DEFENDANT NORA ALVAREZ, and  
13 DEFENDANT CRAIG ABERCROMBIE for the absence of any  
14 policies or procedures regarding the SSP.  
15

16 h. DEFENDANT OUSD, through and including DEFENDANT  
17 GREG SMITH, DEFENDANT NORA ALVAREZ, and  
18 DEFENDANT CRAIG ABERCROMBIE for providing serial  
19 disciplines and punishment to T.L. and other similarly situated  
20 students.  
21

22 i. DEFENDANT OUSD, through and including DEFENDANT  
23 GREG SMITH, DEFENDANT NORA ALVAREZ, and  
24 DEFENDANT CRAIG ABERCROMBIE for failing to provide  
25

26 CLASS ACTION COMPLAINT FOR DAMAGES  
27  
28

1 any substantive notice regarding the allegations against T.L. until  
2 the SSP on January 11, 2023, despite repeated requests for such  
3 details and statements throughout December 2022, and as early as  
4 December 15, 2022.  
5

6  
7 j. DEFENDANT OUSD, through and including the DEFENDANT  
8 MEMBERS OF THE OUSD SSP Panel for the constitutionally  
9 deficient and mysterious SSP process.  
10

11 k. DEFENDANT OUSD, through and including the DEFENDANT  
12 MEMBERS OF THE OUSD SSP Panel for the absence of any  
13 policies or procedures related to the SSP process.  
14

15 l. DEFENDANT OUSD, through and including the DEFENDANT  
16 MEMBERS OF THE OUSD SSP Panel for the ultimate decision  
17 to impose additional punishment and discipline on T.L. by  
18 expelling T.L. from Canyon High School and “involuntarily  
19 transferring” T.L. to another school. To date, not a single  
20 document has ever been provided regarding the SSP’s decision,  
21 their vote, their justification, their considerations, and/or their  
22 processes.  
23  
24  
25  
26  
27  
28

1 m. DEFENDANT OUSD, through and including DEFENDANT  
2 HERIBERTO ANGEL for failure to have any policies or  
3  
4 procedures related to the first level of appeal.

5 n. DEFENDANT OUSD, through and including DEFENDANT  
6 HERIBERTO ANGEL for his repeated insistence that T.L.'s  
7  
8 appeal rights did not include the abeyance of the discipline that  
9  
10 was the subject of his appeal.

11 o. DEFENDANT OUSD, through and including DEFENDANT  
12 HERIBERTO ANGEL for the denial of T.L.'s educational rights,  
13  
14 for at least seven (7) educational days, as a condition of his appeal  
15  
16 rights.

17 p. DEFENDANT OUSD, through and including DEFENDANT  
18 HERIBERTO ANGEL for the decision to uphold the SSP's  
19  
20 decision, without any substantive explanation or basis of his  
21  
22 review and justification.

23 q. DEFENDANT OUSD, through and including DEFENDANT  
24 HERIBERTO ANGEL for failure to have any policies or  
25  
26 procedures related to the second level of appeal.

27 r. DEFENDANT OUSD, through and including DEFENDANT  
28 DAVID RIVERA for failure to have any policies or procedures

1 related to the second level of appeal.

2 s. DEFENDANT OUSD, through and including DEFENDANT  
3 DAVID RIVERA for failure to provide copies of stated  
4 “protocols” during the second appeal hearing.  
5

6 t. DEFENDANT OUSD, through and including DEFENDANT  
7 DAVID RIVERA for failure to follow stated “protocols” during  
8 the second appeal hearing.  
9

10 u. DEFENDANT OUSD, through and including DEFENDANT  
11 DAVID RIVERA for denying T.L.’s appeal rights by not  
12 including the abeyance of the discipline that was the subject of his  
13 appeal.  
14

15 v. DEFENDANT OUSD, through and including DEFENDANT  
16 DAVID RIVERA for the denial of T.L.’s educational rights, for  
17 at least seven (7) educational days, as a condition of his appeal  
18 rights.  
19

20 w. DEFENDANT OUSD, through and including DEFENDANT  
21 DAVID RIVERA for the decision to uphold the SSP’s decision  
22 and DEFENDANT HERIBERTO ANGEL’S appeal decision  
23 without any substantive explanation or basis of his review and  
24 justification.  
25  
26  
27  
28

1 x. DEFENDANT OUSD, through and including DEFENDANT  
2 DAVID RIVERA for his retaliation against T.L. for asserting his  
3 appeal rights. Specifically, DEFENDANT RIVERA incorporated  
4 into his January 25, 2023, letter that he was upholding the  
5 decision and for the very first time during the entire process  
6 states: that T.L. engaged in “forcible attempts to kiss and touch  
7 the intimate parts of at least six Canyon High School students  
8 during the school day.” This is patently false, and in clear  
9 retaliation of T.L.’s appeal rights. Moreover, DEFENDANT  
10 DAVID RIVERA’s finding is wholly contrary to DEFENDANT  
11 HERIBERTO ANGEL’s decision during the first appeal to  
12 remove the “willful force” violation under Ca. Ed. Code.  
13 48900(a)(2). In addition, DEFENDANT DAVID RIVERA,  
14 further states, again for the first time and in clear retaliation to  
15 T.L. for exercising his appeal rights, that T.L.’s “presence at  
16 Canyon High School is a continuing danger to Canyon’s  
17 students.” This statement is also post-hoc, without any support in  
18 any of the prior findings by any DEFENDANT OUSD employee  
19 or agent.  
20  
21  
22  
23  
24  
25  
26  
27

28 250. As a fourteen-year-old boy, T.L. suffered from emotional distress as a

1 result of the unsubstantiated adult allegations of “sexual harassment” imposed  
2 upon his normal and non-deviant actions as a fourteen-year-old boy. The  
3  
4 DEFENDANTS’ procedural and substantive violations against T.L. shock the  
5 conscience.

6  
7 251. As outlined in one of the statements in support of T.L., by a licensed  
8 therapist: the DEFENDANT OUSD’s actions and disciplinary posture were not  
9 tailored or age-appropriate for the behaviors at issue. That DEFENDANT OUSD  
10 was inappropriately pathologizing and publicly shaming T.L., while at the same  
11 time disempowering the involved female minors as “inept waifs” with stories of  
12 victimhood and voicelessness. Further, this statement also provided that hours of  
13 interrogation by a nonclinical adult, threats of suspension, legal action, and  
14 pressure for immediate written confessions was far too aggressive a response that  
15 led to a traumatizing response, lacking respect or perspective on a child’s  
16 developmental level of maturation.

17  
18  
19  
20  
21 252. Ultimately, Plaintiff T.L. was forced to withdraw from Canyon High  
22 School in violation of his due process and equal protection rights, as well as other  
23 federal and statutory violations set forth throughout this Complaint.

24  
25 253. Plaintiff endured, and continues to endure, pain and suffering due to  
26 each and every act and omission of all Defendants, and each of them, as set forth  
27 throughout this Complaint.  
28



1 **VI. CLASS ALLEGATIONS**

2 254. Plaintiff brings certain causes of action<sup>17</sup> in this lawsuit on behalf of  
3 the following class pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2),  
4 23(b)(3), and/or 23(c)(4): “All OUSD students of color who (a) received OUSD  
5 disciplinary violations that could have or did result in suspension and/or  
6 expulsion, and/or (b) were referred to the Student Success Panel.”  
7

8  
9 255. Plaintiff reserves the right to modify or amend the class definition,  
10 including the addition of one or more subclasses, after having the opportunity to  
11 conduct discovery.  
12

13 256. Excluded from the Class are Defendants and any of their affiliates,  
14 parents, subsidiaries, officers, and directors; any entity in which Defendants have  
15 a controlling interest; all persons who make a timely election to be excluded from  
16 the class; governmental entities; and all judges assigned to hear any aspect of this  
17 litigation, including their immediate family members.  
18

19 257. Numerosity: By way of example, OUSD suspended thousands of  
20 students of color from academic year 2014-2015 through academic year 2021-  
21 2022. As such, the members of the Class are so numerous that joinder is  
22  
23  
24

25  
26  
27 <sup>17</sup> Plaintiff specifically identifies these causes of action within “Claims for Relief,”  
28 below.

1 impractical.

2       258. Typicality: The claims for which Plaintiff seeks class treatment are  
3 typical of the claims of each class member in that Plaintiff, like all class members,  
4 are and were OUSD students of color. Plaintiff and the Class Members were  
5 injured through DEFENDANTS' disciplinary "programs," including the SSP,  
6 which discriminate on the basis of race/ethnicity and deprives them of procedure  
7 and due process. Thus, Plaintiff is advancing substantially similar legal theories on  
8 behalf of himself and the Class, and Plaintiff's typicality is not impacted by any  
9 potential difference posed by the causes of action he asserts individually in this  
10 complaint.  
11

12       259. Adequacy: Plaintiff will fairly and adequately protect the interest of  
13 the Class. Plaintiff's interests and the interests of all other members of the Class  
14 are identical, and Plaintiff is cognizant of his duty and responsibility to the Class.  
15 Accordingly, Plaintiff can fairly and adequately represent the interests of the  
16 Class. Moreover, Plaintiff's counsel are competent and experienced in litigating  
17 class actions, including litigation of this kind. Plaintiff's counsel intend to  
18 vigorously prosecute this case and will fairly and adequately protect the Class's  
19 interests.  
20

21       260. Commonality and Predominance: There are numerous questions of  
22 law and fact common to the Class, and these common questions predominate over  
23  
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1 any issues affecting only individual class members. Common questions include  
2 but are not limited to:

- 3 a. Whether the OUSD Defendants' disciplinary system, including  
4 the SSP, violates Plaintiff's and the Class Members' procedural  
5 and due process rights;  
6
- 7 b. Whether the OUSD Defendants' disciplinary processes leading  
8 to suspension/expulsion, including the SSP, discriminate  
9 against students of color, including Plaintiff and the Class  
10 Members;  
11
- 12 c. Whether that discrimination is on the basis of race and/or  
13 ethnicity;  
14
- 15 d. Whether OUSD Defendants' conduct was under the color of  
16 state law;  
17
- 18 e. Whether OUSD Defendants' conduct has caused Plaintiff and  
19 the Class Members injury; and  
20
- 21 f. The scope of the injunctive relief and damages to which the  
22 Plaintiff and Class Members are entitled.  
23  
24

25 261. Superiority: A class action is superior to any other available means for  
26 the fair and efficient adjudication of this controversy, and no unusual difficulties  
27 are likely to be encountered in the management of this class action. The purpose  
28

1 of a class action is to permit litigation against wrongdoers even when damages to  
2 an individual plaintiff may not be sufficient to justify individual litigation.

3  
4 Individual litigation by each Class Member would also strain the court system,  
5 create the potential for inconsistent or contradictory judgments, and increase the  
6 delay and expense to all parties and the court system. In sum, the class action  
7 presents far fewer management difficulties and provides the benefits of a single  
8 adjudication, economies of scale, and comprehensive supervision by a single  
9 court.  
10  
11

12 262. Equitable Relief: Class certification is also appropriate under Rule  
13 23(b)(2) because OUSD has acted and refused to act on grounds generally  
14 applicable to the Class as a whole, such that final injunctive relief is appropriate  
15 with respect to the Class as a whole. Such injunctive relief includes, but is not  
16 limited to, the expungement of OUSD's violative disciplinary actions, including  
17 suspension and expulsion, from Plaintiff's and the Class Members' school records.  
18  
19  
20

21 263. This action is also properly maintainable under Rule 23(c)(4) in that  
22 particular issues common to the Class, examples of which are set out *supra*, are  
23 most appropriately and efficiently resolved via class action, and would advance  
24 the disposition of this matter and the parties' interests therein.  
25  
26  
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28

1 **VII. CLAIMS FOR RELIEF**

2 **FIRST CLAIM FOR RELIEF**

3 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**

4 **Fourteenth Amendment-Equal Protection (Race and Ethnicity)**  
5 **(Plaintiff and the Class Against All OUSD Defendants)**

6 264. Plaintiff incorporates all paragraphs, as though fully set forth herein.

7 265. Plaintiff brings this claim individually and on behalf of the Class.

8 266. DEFENDANT OUSD, by and through its employees, has  
9  
10 implemented a disciplinary system that discriminates on the basis of race and/or  
11 ethnicity.

12 267. DEFENDANT OUSD, by and through its employees, have  
13  
14 implemented a disciplinary system known as the Student Success Panel or SSP  
15 that discriminates on the basis of race and/or ethnicity.

16 268. The SSP is a vague and opaque process by which DEFENDANT  
17  
18 OUSD has not provided a single policy or procedure related to this disciplinary  
19  
20 consequence that effectively expels students from their schools under the auspices  
21 of an “involuntary transfer.” This involuntary transfer is a form of severe  
22 discipline and is intentionally utilized and implemented disproportionately against  
23 students of color and is intentionally used by DEFENDANT OUSD to mask its  
24 discriminatory educational disciplinary data.  
25

26 269. DEFENDANT OUSD refers to the SSP as neither suspension nor  
27  
28

1 expulsion. However, there is not a single policy or procedure related to the SSP  
2 anywhere in DEFENDANT OUSD's policies or procedures, the Canyon High  
3 School's policies or procedures, or anywhere else.  
4

5 270. DEFENDANT OUSD has been unable to provide a single document  
6 explaining the SSP; its purpose; its procedures; and the circumstances under  
7 which an SSP is utilized other than to say "the school site has determined the  
8 nature of your child's offense is beyond that of a standard suspension."  
9  
10

11 271. Upon information and belief, OUSD's categorization of "involuntary  
12 placement" by the SSP is a mechanism by which students of color are placed into  
13 a quasi-expulsion status, in order to avoid state laws requiring reporting of race  
14 and ethnicity disciplinary data.  
15  
16

17 272. Neither OUSD's policies and procedures nor the state education  
18 regulations provide the basis for determining when a child is subject to the  
19 OUSD-specific SSP process, how the SSP process is implemented, and/or the  
20 definition of or process for "involuntary placement."  
21

22 273. Upon information and belief, the DEFENDANT OUSD's arbitrary  
23 use of the SSP discriminates against students of color on the basis of race, color,  
24 and ethnicity. Based on public suspension data outlined herein, DEFENDANT  
25 OUSD's disciplinary suspensions, whether as a result of SSP or otherwise,  
26  
27  
28

1 discriminate against students of color on the basis of race or color, and ethnicity.  
2 Moreover, DEFENDANT OUSD has refused to share the SSP-specific data,  
3  
4 contrary to state law.

5  
6 274. For example, Black students in OUSD high schools are suspended at  
7 over 2.6 times the rate of white students. This disparate impact was statistically  
8 significant at 5.7 units of standard deviation. The probability of this deviation  
9 occurring by chance is less than 1-in-70 million.  
10

11 275. Hispanic students in OUSD high schools are suspended at over 2.3  
12 times the rate of white students. This disparate impact was statistically significant  
13 at 10.4 units of standard deviation. The probability of this deviation occurring by  
14 chance is less than 1-in-a-billion.  
15  
16

17 276. All of the purported SSP-specific data was incomplete and did not  
18 include race/sex/ethnicity data, notwithstanding initial and repeated requests for  
19 such data. Upon information and belief, the SSP data would, at a minimum be  
20 consistent with the public disciplinary data and likely reflect more significant  
21 racial and ethnic disparities regarding the students subject to SSP; the violations  
22 subject to the SSP; the outcome of the SSP; the schools from which the students  
23 originate; the schools at which the students are “involuntarily placed;” appeals  
24 processes, if any; and return, if applicable.  
25  
26  
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28

1           277. These significant disparate disciplinary data, along with the absence  
2 of any guidelines, policies, or procedures in English or Spanish, at a minimum,  
3 provide compelling evidence that DEFENDANT OUSD, by and through its  
4 employees, is discriminating against students of color on the basis of race, color,  
5 ethnicity, and/or sex in violation of the Equal Protection clause of the Fourteenth  
6 Amendment.  
7

8  
9           278. DEFENDANTS OUSD, GREG SMITH, NORA ALVAREZ,  
10 CRAIG ABERCROMBIE, HERIBERTO ANGEL, DAVID RIVERA, and DOE  
11 DEFENDANTS 1-3 individually and collectively have intentionally masked,  
12 obfuscated, and hidden the policies and procedures related to the SSP. No student  
13 past or present was aware of the SSP, its policies or procedures, or the appeal  
14 process.  
15

16  
17           279. DEFENDANTS' actions were intentional and with deliberate  
18 deprivation and/or indifference to the constitutional interests of Plaintiff and the  
19 Class Members.  
20

21  
22           280. DEFENDANTS' imposition of its educational code violations and  
23 the disciplinary processes thereto are applied differently on the basis of race,  
24 ethnicity, and/or sex from similarly situated individuals who had committed or  
25 had been accused of committing educational code violations and denied equal  
26  
27  
28



1 protection under the Fourteenth Amendment of the United States Constitution.

2  
3 281. The complained of acts of DEFENDANTS were shocking to the  
4 conscience, beyond the bounds of acts tolerable in a civilized society, and so  
5 egregious and outrageous that they may fairly be said to shock the contemporary  
6 conscience.  
7

8 282. Plaintiff and the Class specifically allege that Defendants'  
9  
10 complained of acts and/or omissions, were within each of their control, and within  
11 the feasibility of each of them, to alter, adjust, and/or correct so as to prevent  
12 some or all of the unlawful acts and injury complained of herein by Plaintiff and  
13 the Class.  
14

15 283. As a direct and proximate result of this conduct, Plaintiff and the  
16 Class Members suffered injury and damages, including but not limited to  
17 violation of civil rights, loss of education, loss of reputation, loss of opportunity,  
18 emotional distress, and mental anguish.  
19  
20

21 **SECOND CLAIM FOR RELIEF**  
22 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
23 **(Fourteenth Amendment Due Process)**  
24 **(Plaintiff and the Class Against All OUSD Defendants)**

25 284. Plaintiff incorporates all paragraphs, as though fully set forth herein.

26 285. Plaintiff brings these claims individually and on behalf of the Class.

27 286. At all times, each of the OUSD Defendants and employees was acting  
28

1 under color of state law in the performance of his or her official duties.

2 287. Defendant OUSD's disciplinary actions, findings, and procedures,  
3 including, but not limited to the suspension and SSP processes, are nonexistent,  
4 vague, and/or arbitrary.<sup>18</sup>  
5

6 288. As outlined in further detail above, Defendant OUSD has no written  
7 policies or procedures related to the SSP. In fact, a google search of "student  
8 success panel" or SSP results in no substantive information related to any policies  
9 or procedures related thereto. The OUSD website has no reference whatsoever to  
10 the SSP. Further, DEFENDANT GREG SMITH admitted that there was no  
11 substantive information regarding the policies or procedures of the SSP to provide  
12 Plaintiffs, upon their request.  
13  
14  
15

16 289. Defendants' "*policy of having no policy*" exists to give them  
17 unfettered discretion to impose discipline or show favor based upon their own  
18 preferences and desires, rather than in conformity with due process and fairness.  
19 In violation of his due process and in the absence of rudimentary precautions, T.L.  
20 was not provided written or oral notice of the charges against him.  
21  
22  
23

24 290. There were no processes in place for any appeals.  
25

---

26 <sup>18</sup> Even the Board's own policy says it "shall develop...the policies and  
27 procedures for addressing violations of [the standards of behavior], including  
28 suspension and/or expulsion." 5144.1(a).

1           291. There were no policies in place for any appeals.

2           292. DEFENDANTS required Plaintiff, and upon information and belief  
3  
4 other Class Members, to withdraw from school in order to exercise their right to  
5 appeal to stay in school. This policy denied Plaintiff and Class Members due  
6 process.  
7

8           293. The absence of *any* policies or procedures related to DEFENDANT  
9 OUSD's entire disciplinary process on its face and as applied to T.L. and the  
10 Class Members violate procedural due process under the Fourteenth Amendment  
11 of the United States Constitution.  
12

13           294. As set forth throughout this Complaint, DEFENDANT OUSD and  
14 their employee and agent DEFENDANTS' actions violated substantive due  
15 process as they were an abuse of government power.  
16  
17

18           295. As set forth throughout this Complaint, the violations against T.L.  
19 were unsupported, uncorroborated, and unsubstantiated. T.L.'s actions were not  
20 sexual; did not constitute sexual harassment; were not severe; were not pervasive;  
21 and were not objectively unreasonable.  
22

23           296. The DEFENDANT OUSD, by and through their employees, abused  
24 their power and authority by deeming normal teenager behavior (by both teen  
25 boys and girls) as sexual harassment and violating T.L.'s educational rights.  
26  
27  
28

1           297. The single interpersonal interactions between a T.L., a male fourteen-  
2 year-old child, and separate single interactions with female fourteen-year-old  
3 peers do not rise to the requisite level of severity individually or collectively.  
4  
5 DEFENDANT OUSD, by and through their employees, aggregated five  
6 interpersonal interactions that T.L. had with five different female peers over the  
7 course of an entire semester—four months—to erroneously determine that T.L.  
8 was a “sexual harasser.” Other than Student A, whose mother purportedly  
9 demanded an investigation of an “uncomfortable” encounter between her  
10 daughter and T.L.—which does not qualify as sexual harassment--no other female  
11 had previously complained or alleged that they had been “sexually harassed.”  
12  
13  
14

15           298. As the Department of Education, Office of Civil Rights guidance on  
16 sexual harassment states: “[S]chool personnel should consider the age and  
17 maturity of students when responding to allegations of sexual harassment.”  
18 Moreover, “age is relevant in determining whether a student welcomed the  
19 conduct and determining whether the conduct was severe, persistent, or  
20 pervasive.” 62 FR 12034.  
21  
22  
23

24           299. T.L.’s isolated and nonsexual interactions with other fourteen-year-  
25 old female students would not be considered by a reasonable female girl to be  
26 “sufficiently severe” or “pervasive” to have a negative impact upon the female’s  
27  
28

1 academic performance under Ca. Ed. Code § 48900.2, and Section 212.5, nor did  
2 the DEFENDANTS make any such findings.  
3

4 300. T.L.’s isolated and nonsexual interactions with other fourteen-year-  
5 old female students would and could not be considered by a reasonable female  
6 girl to create an “intimidating, hostile, or offensive educational environment”  
7 under Ca. Ed. Code § 48900.2 and Section 212.5.  
8

9  
10 301. As set forth throughout this Complaint, DEFENDANT OUSD and  
11 their employee and agent DEFENDANTS’ actions and omissions fail to provide  
12 basic procedural due process throughout the disciplinary process, including from  
13 initial interrogation, to suspension, to SSP, and through two appeals.  
14

15 302. As set forth throughout this Complaint, DEFENDANT OUSD and  
16 their employee and agent DEFENDANTS’ actions and omissions violate  
17 substantive due process for all Class Members, *i.e.*, students subjected to OUSD  
18 disciplinary action implicating suspension and/or expulsion and students referred  
19 to the SSP.  
20

21 303. As a direct and proximate result of this conduct, Plaintiff and the  
22 Class Members suffered injury and damages, including but not limited to  
23 violation of civil rights, loss of education, loss of reputation, loss of opportunity,  
24 emotional distress, and mental anguish.  
25  
26  
27  
28

**THIRD CLAIM FOR RELIEF**  
**VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
**(Fourth Amendment-Unlawful Seizure)**  
**(Plaintiff Against All OUSD Defendants)**

304. Plaintiff incorporates all paragraphs, as though fully set forth herein.

305. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff seeks to redress a deprivation under color of law of a right, privilege, or immunity secured to him by the Fourth Amendment to the United States Constitution.

306. The Fourth Amendment protects Plaintiff from an unreasonable seizure.

307. T.L. was detained by government officials without legal basis, lawful reason, or justifiable excuse against his will.

308. T.L.'s restriction of movement and restraint for over two hours of interrogation and emotional abuse was unreasonable and in violation of Plaintiff's Fourth Amendment rights.

309. DEFENDANT OUSD and its employees, including, but not limited to DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ, prevented T.L. from leaving DEFENDANT GREG SMITH's office for over two hours without a reasonable basis or justification and was impermissible by any reasonable standards.

310. It was unreasonable to continue to coerce, intimidate, and threaten

1 T.L. for over two hours during the school day to chase unsubstantiated claims of  
2 sexual harassment, and without even disclosing to T.L. that that is what they were  
3 doing.  
4

5 311. DEFENDANT OUSD and its employees, including, but not limited  
6 to DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ,  
7 engaged in abusive and offensive interrogation tactics against a fourteen-year-old  
8 boy to extract coerced statements regarding his interpersonal interactions with his  
9 fourteen-year-old peers.  
10  
11

12 312. DEFENDANT OUSD and its employees, including, but not limited  
13 to DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ's  
14 abusive and offensive actions shock the conscience and are impermissible abuses  
15 of power under the United States Constitution.  
16  
17

18 **FOURTH CLAIM FOR RELIEF**  
19 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
20 **(First Amendment-Freedom of Speech)**  
21 **(Plaintiff Against All OUSD Defendants)**

22 313. Plaintiff incorporates all paragraphs, as though fully set forth herein.

23 314. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff  
24 seeks to redress a deprivation under color of law of a right, privilege, or immunity  
25 secured to him by the First Amendment to the United States Constitution.  
26

27 315. The First Amendment guarantees Plaintiff's freedom of speech and  
28

1 expression permitting Plaintiffs to, *inter alia*, freely and lawfully express opinions  
2 or ideas. This expression may be accomplished verbally, demonstratively, and/or  
3 symbolically.  
4

5 316. In the course of normal male or female fourteen-year-old behavior,  
6 T.L., a male, requested permission to kiss his female fourteen-year-old peers.  
7 When the females declined, he complied with their requests and never physically  
8 forced any of them to engage in any physical contact.  
9  
10

11 317. DEFENDANT OUSD, by and through its employees, disciplined and  
12 penalized T.L. for the content of this speech and for engaging in this expression.  
13

14 318. DEFENDANTS, and each of them, not only penalized and  
15 disciplined T.L. for his verbal speech, but they also did so in disapproval and  
16 reprisal of T.L.'s expression of himself as a heterosexual male.  
17

18 319. Due to each DEFENDANTS' actions and/or omissions, T.L. suffered  
19 harm and injuries, including emotional distress and damage to reputation.  
20

21 **FIFTH CLAIM FOR RELIEF**  
22 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
23 **(First Amendment-Right to Petition/Freedom from Retaliation)**  
24 **(Plaintiff Against All OUSD Defendants)**

25 320. Plaintiff incorporates all paragraphs, as though fully set forth herein.

26 321. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff  
27 seeks to redress a deprivation under color of law of a right, privilege, or immunity  
28



1 secured to him by the First Amendment to the United States Constitution.

2  
3 322. T.L. engaged in a constitutionally protected right to petition for  
4 constitutional protections, including, but not limited to, evidentiary proffer, due  
5 process, and appeals, related to the disciplinary actions and findings taken against  
6 him by DEFENDANT OUSD and individually named DEFENDANT OUSD  
7 employees.  
8

9  
10 323. As a result of exercising his rights to petition for constitutional  
11 protections, including, but not limited to, evidentiary proffer, due process, and  
12 appeals, related to the disciplinary actions and findings taken against him by  
13 DEFENDANT OUSD and individually named DEFENDANT OUSD employees,  
14 he was subjected to adverse action by DEFENDANT OUSD and individually  
15 named DEFENDANT OUSD employees. Adverse action included denial of his  
16 appeal rights and request for abeyance of the discipline that was the subject matter  
17 of appeal, inability to receive and continue his education pending appeal, loss of  
18 educational days outside of his four-day suspension (for a total of 10 educational  
19 days), damage to reputation and character, mental and emotional abuse,  
20 retaliatory escalation of violations, and retaliatory trumped-up charges.  
21  
22  
23  
24

25  
26 324. The adverse actions outlined here and throughout this Complaint  
27 would undoubtedly chill a person of ordinary firmness, particularly a 14-year-old  
28

1 boy, from continuing to engage in the protected activity (the right to petition).

2 325. In particular, the adverse actions by DEFENDANT DAVID  
3 RIVERA, under the auspices of a second level appeal, as outlined throughout this  
4 Complaint are particularly offensive, egregious, and subject to constitutional  
5 remedies. DEENDANT DAVID RIVERA retaliated against T.L. and his parents  
6 for seeking an appeal.  
7

8 326. DEFENDANT HERIBERTO ANGEL engaged in adverse actions  
9 against T.L. by requiring him to begin his punishment (i.e., withdraw from  
10 Canyon High School immediately) notwithstanding his appeal rights.  
11

12 327. There was substantial causal relationship between T.L.'s exercise of  
13 his First Amendment right to petition and the multiple adverse and deliberate  
14 actions taken against him by DEFENDANT OUSD and individually named  
15 DEFENDANT OUSD employees.  
16

17  
18  
19 **SIXTH CLAIM FOR RELIEF**  
20 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
21 **Unconstitutional Policy, Custom, or Procedure (*Monell*)**  
22 **(Plaintiff and the Class Against Defendant OUSD)**

23 328. Plaintiff incorporates all paragraphs, as though fully set forth herein.

24 329. Plaintiff brings this claim individually and on behalf of the Class.

25 330. This cause of action arises under 42 U.S.C. §1983, wherein Plaintiff  
26 seeks to redress a deprivation under color of law of a right, privilege, or immunity  
27

1 secured to them by the Fourteenth Amendment to the United States Constitution.

2  
3 331. As outlined throughout this Complaint, DEFENDANT OUSD did not  
4 have any policies or procedures related to 1) disciplinary process, particularly  
5 with respect to investigations of sexual harassment or willful force; 2) the appeal  
6 process; 3) the SSP; 4) the appeal process; or 5) the second level appeal process.  
7

8 332. DEFENDANT OUSD, by and through DEFENDANT GREG  
9 SMITH and DEFENDANT NORA ALVAREZ conducted their “me-too”  
10 “investigation” of a 14-year-old boy with no policies or procedures in place to  
11 guide their interrogations, credibility and veracity of witnesses, physical evidence,  
12 corroborating evidence, hearsay, and fundamental fairness and objectivity  
13 regarding the substantive violations.  
14

15 333. DEFENDANT OUSD, by and through the MEMBERS OF THE  
16 OUSD SSP, conducted a kangaroo court hearing without a single policy or  
17 procedure related to their proceedings or their ultimate findings. In fact, to date,  
18 nothing from the SSP has ever been provided.  
19

20 334. DEFENDANT OUSD, by and through DEFENDANT  
21 HERIBERTO ANGEL participated in an “appeal” with no policies and  
22 procedures in place and his subsequent justifications are post-hoc and without any  
23 objective record.  
24  
25  
26  
27  
28

1           335. DEFENDANT OUSD, by and through DEFENDANT DAVID  
2 RIVERA participated in a “second appeal” with no policies and procedures in  
3 place and even engaged in retaliation against T.L. by making completely baseless  
4 and unsupported egregious findings against T.L. that had never been stated, let  
5 alone supported, in previous faulty proceedings.  
6  
7

8           336. DEFENDANT OUSD violated Plaintiff’s and Class Members’  
9 constitutional rights, as alleged supra, by creating and maintaining the following  
10 unconstitutional customs and practices, inter alia:  
11

- 12           a. Plaintiff alleges that DEFENDANT OUSD has a *de facto* policy,  
13 custom, and/or practice of not protecting the procedural due process  
14 rights of its students throughout its disciplinary process;  
15  
16           b. Plaintiff alleges that DEFENDANT OUSD has a *de facto* policy,  
17 custom, and/or practice of not protecting the substantive due process  
18 rights of its students throughout its disciplinary process;  
19  
20           c. Plaintiff alleges that DEFENDANT OUSD has a *de facto* policy,  
21 custom, and/or practice of retaliating against students who exercise  
22 their due process rights;  
23  
24           d. Plaintiff alleges that DEFENDANT OUSD has a *de facto* policy,  
25 custom, and/or practice of denying students equal protection on the  
26 basis of race, color, ethnicity, and/or sex.  
27  
28

1 e. Plaintiff alleges that DEFENDANT OUSD has a *de facto* policy,  
2 custom, or practice of inadequately monitoring and/or investigating  
3 their employees' misconduct, including disciplinary investigations,  
4 decisions, and retaliation;  
5

6 337. Plaintiff is informed, believe, and thereupon alleges that these  
7 policies, practices, customs, and procedures are intentional and/or the result of  
8 deliberate indifference on the part of DEFENDANT OUSD, by and through its  
9 decision makers.  
10

11 338. The foregoing unconstitutional customs and practices were a direct  
12 and legal cause of harm to Plaintiffs and the Class.  
13

14 339. Plaintiff specifically alleges that DEFENDANT OUSD'S policies,  
15 customs, and/or practices, as described herein, were within the control of  
16 DEFENDANT OUSD and within the feasibility of DEFENDANT OUSD to  
17 alter, adjust, and/or correct so as to prevent some or all of the unlawful acts and  
18 injury complained of herein by Plaintiff and the Class.  
19  
20  
21

22 **SEVENTH CLAIM FOR RELIEF**  
23 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**  
24 **Failure to Train, Supervise, Discipline, or Correct**  
25 **(*City of Canton & Larez*)**  
26 **(Plaintiff and the Class Against Defendant OUSD)**

27 340. Plaintiff incorporates all paragraphs, as though fully set forth herein.

28 341. Plaintiff brings this claim individually and on behalf of the Class.

1           342. This cause of action arises under 42 U.S.C. § 1983, wherein Plaintiff  
2 and the Class seek to redress a deprivation under color of law of a right, privilege,  
3 or immunity secured to them by the Fourteenth Amendment to the United States  
4 Constitution.  
5

6           343. As outlined throughout this Complaint, including the Sixth Claim for  
7 Relief above, because of or in addition to the absence of policies or procedures,  
8 DEFENDANTS had no training, supervision, discipline or correction related to  
9 the procedural and substantive failures engaged by each of the OUSD  
10 DEFENDANTS. In fact, it was clear that there are no policies and procedures in  
11 place, informal or otherwise, related to the disciplinary process at Canyon High  
12 School when DEFENDANT GREG SMITH commented to T.L.'s parents that  
13 nobody had previously requested to see evidence related to a disciplinary  
14 violation. Moreover, DEFENDANT HERIBERTO ANGEL and DEFENDANT  
15 DAVID RIVERA were completely clueless about the process and could not even  
16 communicate orally to T.L. and his parents the process and steps for appeal  
17 *because there were no steps in place for the appeal process.*  
18  
19  
20  
21  
22  
23

24           344. Upon information and belief, at a minimum, DEFENDANT DAVID  
25 RIVERA had never participated in a second appeal; had no idea what the process  
26 was required to entail; had no training regarding a second appeal; referenced  
27  
28

1 nonexistent “protocols” requiring the parties to wait for DEFENDANT  
2 HERIBERTO ANGEL’s participation in the “second appeal” and then jettisoned  
3 any such mandatory protocols a few minutes later; and retaliated against T.L. by  
4 making unsubstantiated findings completely outside the previous record, to the  
5 extent there was a record.  
6  
7

8 345. DEFENDANT OUSD violated Plaintiff’s and the Class Members’  
9 constitutional rights, as alleged *supra*, by creating and maintaining the following  
10 unconstitutional customs and practices, inter alia:  
11

- 12 a. Plaintiff is informed, believes, and thereupon alleges that  
13 DEFENDANT OUSD has had ample reason to know that its  
14 employees failed to provide procedural due process to its students  
15 with respect to the entire disciplinary process, including the SSP;  
16  
17 b. Plaintiff is informed, believes, and thereupon alleges that  
18 DEFENDANT OUSD has had ample reason to know that its  
19 employees failed to provide substantive due process to its students  
20 with respect to the entire disciplinary process, including the SSP;  
21  
22 c. Plaintiff is informed, believes, and thereupon alleges that  
23 DEFENDANT OUSD has had ample reason to know that its  
24 employees failed to provide equal protection to its students without  
25  
26  
27  
28

1 regard to race, color, ethnicity, and/or sex;

2 d. Plaintiff is informed, believes, and thereupon alleges that

3  
4 DEFENDANT OUSD failed to properly train, supervise, and/or  
5 discipline employees, officers, managers, and supervisors within  
6 DEFENDANT OUSD as to the legal requirements, obligations, and  
7 protections applicable to persons set forth in the United States and  
8 California Constitutions and other laws;

9 e. Plaintiff is informed, believes, and thereupon alleges that

10  
11 DEFENDANT OUSD failed to properly train, supervise, and/or  
12 discipline employees, officers, managers, and supervisors within  
13 DEFENDANT OUSD as to the legal requirements, obligations, and  
14 protections applicable to persons set forth in the United States and  
15 California Constitutions and other laws; and

16 f. Plaintiff alleges that these failures amount to a *de facto* policy and are

17 intentional and/or the result of deliberate indifference on the part of  
18 DEFENDANT OUSD, by and through its decision makers. These  
19 include, but are not limited to DEFENDANT GREG SMITH,  
20 DEFENDANT NORA ALVAREZ, DEFENDANT CRAIG  
21 ABERCROMBIE, DEFENDANT HERIBERTO ANGEL,  
22 DEFENDANT DAVID RIVERA, and DEFENDANT SSP PANEL

23  
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28  
CLASS ACTION COMPLAINT FOR DAMAGES



1 MEMBERS, and their subordinates, as necessary to further these  
2 improper policies, practices, customs, and procedures.  
3

4 346. The foregoing unconstitutional customs and practices were a direct  
5 and legal cause of harm to Plaintiff and the Class Members.  
6

7 347. DEFENDANT GREG SMITH, DEFENDANT NORA ALVAREZ,  
8 DEFENDANT CRAIG ABERCROMBIE, DEFENDANT HERIBERTO  
9 ANGEL, DEFENDANT DAVID RIVERA, and/or DEFENDANT SSP PANEL  
10 MEMBERS, DOES 1-3, individually and collectively acted in a supervisory  
11 capacity with respect to the incidents involving Plaintiff and the Class Members.  
12 In that capacity, DEFENDANT GREG SMITH, DEFENDANT NORA  
13 ALVAREZ, DEFENDANT CRAIG ABERCROMBIE, DEFENDANT  
14 HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, and DEFENDANT  
15 SSP PANEL MEMBERS, DOES 1-3, acted intentionally, maliciously, and in  
16 conscious disregard, and/or with deliberate indifference to the rights of Plaintiff  
17 and the Class Members.  
18  
19  
20  
21

22 348. These supervisory failures of DEFENDANT GREG SMITH,  
23 DEFENDANT NORA ALVAREZ, DEFENDANT CRAIG ABERCROMBIE,  
24 DEFENDANT HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, and  
25 DEFENDANT SSP PANEL MEMBERS directly caused and contributed to  
26  
27  
28

1 Plaintiff's and the Class Members' damages.

2  
3 349. Plaintiff specifically alleges that DEFENDANT OUSD,  
4 DEFENDANT GREG SMITH, DEFENDANT NORA ALVAREZ,  
5 DEFENDANT CRAIG ABERCROMBIE, DEFENDANT HERIBERTO  
6 ANGEL, DEFENDANT DAVID RIVERA, and DEFENDANT SSP PANEL  
7 MEMBERS' constitutionally defective policy, custom, and practice, as described  
8 supra, was within each of their control, and within the feasibility of each of them,  
9 to alter, adjust, and/or correct so as to prevent some or all of the unlawful acts and  
10 injury complained of herein.  
11  
12  
13

14 **EIGHTH CLAIM FOR RELIEF**  
15 **VIOLATION OF TITLE IX (20 U.S.C. § 1681 *et seq.*)**  
16 **(Plaintiff Against All OUSD Defendants)**

17 350. Plaintiff incorporates all paragraphs, as though fully set forth herein.

18 351. This cause of action arises under 20 U.S.C. § 1681(a), wherein  
19 Plaintiff seeks to redress discrimination under an education program receiving  
20 Federal financial assistance.  
21

22 352. DEFENDANT OUSD is an education program receiving Federal  
23 financial assistance.  
24

25 353. DEFENDANT OUSD, by and through its employees, discriminated  
26 against T.L. based on sex or gender stereotypes by treating his female fourteen-  
27 year-old peers as fragile, in need of heightened protection because of their gender,  
28

1 and unable to make independent autonomous decision-making regarding their  
2 interactions with their male peers.  
3

4 354. DEFENDANT OUSD, by and through its employees, discriminated  
5 against T.L. based on sex or gender stereotypes that boys' motivations and  
6 interactions with females are predatory and sexualized; whereas girls' motivations  
7 and interactions with males are innocent and non-sexualized and in need of  
8 heightened protection.  
9  
10

11 355. DEFENDANT OUSD, by and through its employees, functioned in  
12 a paternalistic position with respect to the female minors, but denied T.L. the  
13 same paternalistic protections and evidentiary accommodations that it provided  
14 the females.  
15

16 356. Defendant OUSD, by and through its employees, discriminated  
17 against T.L. based on sex or gender stereotypes by giving more credibility and  
18 weight to female students' hearsay claims than T.L.'s denials of the female  
19 student's uncorroborated hearsay claims.  
20  
21

22 357. Defendant OUSD, by and through its employees, discriminated  
23 against T.L. based on sex or gender stereotypes by exacting disproportionate and  
24 severe punishment and discipline on T.L. for flirting with his female peers than  
25 his female peers who engaged in criminal or potentially criminal acts, including,  
26  
27  
28

1 but not limited to using illegal drugs, making false statements, and violating two-  
2 party consent statutes.  
3

4 358. DEFENDANT OUSD, by and through its employees, had actual  
5 knowledge and deliberate indifference to the rights and protections that should  
6 have been equally afforded to T.L. Moreover, the responses, actions, and  
7 omissions by the DEFENDANT OUSD, by and through all of its employee  
8 DEFENDANTS, were clearly unreasonable in light of the known circumstances.  
9  
10

11 **NINTH CLAIM FOR RELIEF**  
12 **CONSPIRACY TO VIOLATE CIVIL RIGHTS (42 U.S.C. §1985 )**  
13 **(Plaintiff Against All Defendants)**

14 359. Plaintiff incorporates all paragraphs, as though fully set forth herein.

15 360. DEFENDANT OUSD, DEFENDANT GREG SMITH,  
16 DEFENDANT NORA ALVAREZ, DEFENDANT CRAIG ABERCROMBIE,  
17 DEFENDANT HERIBERTO ANGEL, DEFENDANT DAVID RIVERA,  
18 DEFENDANT SSP PANEL MEMBERS, and one or more female fourteen-year-  
19 old DOE DEFENDANTS conspired together to deprive Plaintiff of his procedural  
20 and substantive due process rights and equal protection rights, in violation of 42  
21 U.S.C. §1985.  
22  
23  
24

25 361. One or more Defendants acted in furtherance of the conspiracy by  
26 intentionally:  
27

28 a. Providing hearsay statements that were given undue weight,

1 notwithstanding contrary hearsay evidence, physical evidence, and  
2 other circumstantial evidence;

3  
4 b. Obtaining and withholding recordings in violation of state two-party  
5 consent requirements; and

6  
7 c. Imposing serial disciplinary actions without due process and equal  
8 protection based on statements from T.L. and other females obtained  
9 under duress, threats, intimidation, and coercion.  
10

11 362. As a direct and proximate result of DEFENDANTS' conspiracy,  
12 Plaintiff was deprived of his constitutional and statutory rights and experienced  
13 mental, emotional, and physical suffering, because of the DEFENDANTS' acts or  
14 omissions.  
15

16  
17 **TENTH CLAIM FOR RELIEF**  
18 **NEGLIGENCE**

19 **(Plaintiff and the Class Against All OUSD Defendants)**

20 363. Plaintiff incorporates all paragraphs, as though fully set forth herein.

21 364. Plaintiff brings this claim individually and on behalf of the Class.

22 365. This cause of action arises under the general laws and Constitution of  
23 the State of California.

24 366. For purposes of this claim for relief, allegations are deemed to sound  
25 in negligence, and set forth pursuant to Cal Civ Code §§ 1714, 3333.

26 367. DEFENDANTS, and each of them, generally owed Plaintiff and  
27  
28

1 Class Members a duty of reasonable care to avoid exposing Plaintiff and Class  
2 Members to reasonably foreseeable risk of harm or injury by acting reasonably  
3 under the circumstances complained of in this Complaint.  
4

5 368. All DEFENDANTS, and each of them, breached their duty of  
6 reasonable care, as complained of in this Complaint, by failing to act reasonably  
7 under the circumstances and exposing Plaintiff and Class Members to reasonably  
8 foreseeable risks of harm or injury.  
9  
10

11 369. As a direct, legal, and proximate result of the aforementioned  
12 foreseeable conduct throughout this Complaint, Plaintiff and the Class have  
13 suffered and continue to suffer emotional pain and injury, all in an amount to be  
14 determined according to proof at trial.  
15

16 370. DEFENDANT OUSD is liable to Plaintiff and the Class for the acts  
17 of its employees, the individual DEFENDANTS herein, for conduct and/or  
18 omissions herein alleged, pursuant to the doctrine of *respondeat superior*,  
19 codified at Ca. Gov. Code § 815.2, elsewhere and as set forth by precedent.  
20  
21

22 **ELEVENTH CLAIM FOR RELIEF**  
23 **NEGLIGENT HIRING, SUPERVISION, and**  
24 **RETENTION OF EMPLOYEE**  
25 **(Plaintiff and the Class Against Defendant OUSD)**

26 371. Plaintiff incorporates all paragraphs, as though fully set forth herein.

27 372. Plaintiff brings this claim individually and on behalf of the Class.  
28

1           373. DEFENDANT OUSD had a duty to provide clear and consistent  
2 policies and procedures regarding its disciplinary process, due process  
3 requirements, and nondiscrimination, including, but not limited to, the SSP and all  
4 other individually named DEFENDANTS.  
5

6           374. DEFENDANT OUSD had a duty to ensure that that its employees  
7 exercised their duties and responsibilities consistent with its written policies and  
8 procedures regarding discipline, due process requirements, and  
9 nondiscrimination, including, but not limited to, the SSP.  
10

11           375. DEFENDANT OUSD was negligent in its supervision of  
12 DEFENDANT GREG SMITH, DEFENDANT NORA ALVAREZ,  
13 DEFENDANT CRAIG ABERCROMBIE, DEFENDANT HERIBERTO  
14 ANGEL, DEFENDANT DAVID RIVERA, and DEFENDANT SSP PANEL  
15 MEMBERS and failed to ensure that they each exercised their duties and  
16 responsibilities within the bounds of policies and procedures established by the  
17 California legislature and the State Board of Education, as well as their own  
18 OUSD Board policies, and the state and federal statutes and constitutions.  
19

20           376. Plaintiff and the Class suffered damages and harm by DEFENDANT  
21 OUSD and its employees as a result of DEENDANT OUSD's Negligent hiring,  
22 supervision, and retention of DEFENDANTS GREG SMITH, DEFENDANT  
23  
24  
25  
26  
27  
28

1 NORA ALVAREZ, DEFENDANT CRAIG ABERCROMBIE, DEFENDANT  
2 HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, and DEFENDANT  
3 SSP PANEL MEMBERS  
4

5 377. DEFENDANT OUSD's negligence in hiring, supervising, and  
6 retaining DEFENDANTS GREG SMITH, DEFENDANT NORA ALVAREZ,  
7 DEFENDANT CRAIG ABERCROMBIE, DEFENDANT HERIBERTO  
8 ANGEL, DEFENDANT DAVID RIVERA, and DEFENDANT SSP PANEL  
9 MEMBERS proximately and substantially caused the Plaintiff's and the Class  
10 Members' foreseeable injuries.  
11  
12  
13

14 **TWELFTH CLAIM FOR RELIEF**  
15 **CALIFORNIA CONSTITUTION, Cal Const. Art. I, § I**  
16 **(Right to Privacy)**  
17 **(Plaintiff Against All OUSD Defendants)**

18 378. Plaintiff incorporates all paragraphs, as though fully set forth herein.

19 379. This cause of action arises under the Constitution of the State of  
20 California, which provides: "All people are by nature free and independent and  
21 have inalienable rights. Among these are enjoying and defending life and liberty,  
22 acquiring, possessing, and protecting property, and pursuing and obtaining safety,  
23 happiness, and privacy."  
24

25 380. Plaintiff has legally protected liberty and privacy interests. These  
26 interests necessarily extend to the facts, data, and information related to the  
27  
28



1 confidential disciplinary actions against T.L. by DEFENDANT OUSD and its  
2 employees.  
3

4 381. In addition to T.L.'s state constitutional privacy rights, in accordance  
5 with the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C.  
6 § 1232G; 34 CFR Part 99, Plaintiff's education records, including disciplinary  
7 actions, are federally protected as private and confidential.  
8

9 382. Upon information and belief, after T.L. was forced to withdraw from  
10 Canyon High School, including during the pendency of his appeals, Female  
11 Student A and/or one or more female student DOE DEFENDANTS 4-50 falsely  
12 told other students that T.L. was expelled from Canyon High School because he  
13 was a "sexual harasser" and he "touched girls."  
14

15 383. Upon information and belief, after T.L. was forced to withdraw from  
16 Canyon High School, including during the pendency of his appeals, one or more  
17 unidentified counselors at Canyon High School falsely and erroneously disclosed  
18 to other uninvolved male students that T.L. was "kicked out" of Canyon High  
19 School because he "tried" to make out with other girls. Although this information  
20 was patently false, the counselor's status and position at the high school gave the  
21 imprimatur of truth and official information against T.L. This school counselor  
22 disclosed private and confidential disciplinary information to other high school  
23  
24  
25  
26  
27  
28

1 students in violation of FERPA and other state constitution and laws.

2  
3 **THIRTEENTH CLAIM FOR RELIEF**  
4 **VIOLATION OF CAL. CIV. CODE § 52.1 (Bane Act)**  
5 **(Plaintiff Against All OUSD Defendants)**

6 384. Plaintiff incorporates all paragraphs, as though fully set forth herein.

7 385. This cause of action arises under Cal Civ. Code §52.1, wherein  
8 DEFENDANT OUSD, by and through its employees, interfered with the exercise  
9 of Plaintiff's rights under federal and state statutes and constitutions by "threat,  
10 intimidation, or coercion."  
11

12 386. As set forth throughout this Complaint, DEFENDANT OUSD, by  
13 and through its employees, denied T.L. procedural and due process protections  
14 throughout the disciplinary process, including through the use of threats,  
15 intimidation, and coercion; retaliated against T.L. for exercising his due process  
16 rights; and discriminated against T.L. on the basis of race, color, ethnicity and/or  
17 sex.  
18  
19  
20

21 **FOURTEENTH CLAIM FOR RELIEF**  
22 **FALSE IMPRISONMENT**  
23 **(Plaintiff Against ALL OUSD Defendants)**

24 387. Plaintiff incorporates all paragraphs, as though fully set forth herein.

25 388. DEFENDANT OUSD, by and through DEFENDANT GREG  
26 SMITH and DEFENDANT NORA ALVAREZ intentionally and unlawfully  
27 restrained, detained, or confined T.L. for over two hours while they unlawfully  
28

CLASS ACTION COMPLAINT FOR DAMAGES

1 interrogated him, refused to allow him to leave, or to call his parents.

2  
3 389. DEFENDANT OUSD, by and through DEFENDANT GREG  
4 SMITH and DEFENDANT NORA ALVAREZ forced T.L. to stay in  
5 DEFENDANT GREG SMITH's office for over two hours while being  
6  
7 interrogated, threatened, and intimidated.

8  
9 390. T.L. did not believe he was free to leave, did not consent to his  
10 restraint, and believed he was prevented from leaving by DEFENDANT GREG  
11 SMITH and/or DEFENDANT NORA ALVAREZ at all times for over two hours  
12  
13 on December 15, 2022.

14 391. T.L. was taken out of his educational classes and held for over two-  
15  
16 hours to be interrogated by DEFENDANT GREG SMITH and DEFENDANT  
17 NORA ALVAREZ about, among other things, his interpersonal interactions with  
18  
19 other female students for, at least, the previous four months.

20 392. T.L. suffered damages as a result of the false imprisonment,  
21  
22 including, but not limited to damage to reputation, false allegations, and mental  
23  
24 abuse.

25 **FIFTEENTH CLAIM FOR RELIEF**  
26 **VIOLATION OF CAL. ED. CODE § 220**  
27 **(Plaintiff and the Class Against All OUSD Defendants)**

28 393. Plaintiff incorporates all paragraphs, as though fully set forth herein.

394. Plaintiff brings this claim individually and on behalf of the Class.

CLASS ACTION COMPLAINT FOR DAMAGES

1           395. This cause of action arises under Cal Ed. Code § 262.4, wherein  
2       DEFENDANT OUSD, by and through its employees, discriminated against  
3       Plaintiff and the Class Members on the basis of gender, race, and/or ethnicity in  
4       an educational program activity that receives, or benefits from, state financial  
5       assistance in violation of Cal. Ed. Code §220.  
6

7  
8           396. As set forth throughout this Complaint, DEFENDANT OUSD, by  
9       and through its employees, denied T.L. and the Class Members procedural and  
10      due process protections throughout the disciplinary process; retaliated against T.L.  
11      for exercising his due process rights; and discriminated against T.L. and the Class  
12      Members on the basis of gender, race, and/or ethnicity.  
13  
14

15           397. Plaintiff and the Class seek only injunctive relief with respect to this  
16      cause of action only.  
17

18                   **SIXTEENTH CLAIM FOR RELIEF**  
19                   **CALIFORNIA PUBLIC RECORDS ACT**  
20                   **(Ca. Gov. Code, § 6259 *et seq.*)**  
21                   **(Plaintiff Against Defendant OUSD)**

22           398. Plaintiff incorporates all paragraphs, as though fully set forth herein.

23           399. DEFENDANT OUSD has improperly withheld public records  
24      Plaintiff requested and are entitled to under Ca. Gov. Code §6259.

25           400. DEFENDANT OUSD has made piecemeal productions and engaged  
26      in serial delays responding to Plaintiff's requests since January 2023, and of the  
27  
28

1 date of this Complaint, continues to delay timely and complete production.

2 Specifically, DEFENDANT OUSD has not provided complete responses to

3  
4 Plaintiff's numerous requests for:

5 a. All documents, e-mails, text messages, chat messages, instant  
6 messages, audio recordings, video recordings, photographs, drawings,  
7 notes, and drafts (hereinafter collectively referred to as "documents")  
8 related to the disciplinary action taken against T.L. on or about  
9 December 16, 2022, by Canyon High School, including the Student  
10 Success Panel, and/or OUSD, including, but not limited to:

11 i. All documents related to the report, investigation, findings, and  
12 determination related to the facts and evidence surrounding the  
13 incidents subject to the OUSD disciplinary action against T.L.  
14 dated December 16, 2022. These documents include, but are  
15 not limited to:

- 16 1. All written statements for any involved students;  
17 2. All documents from any involved students;  
18 3. All documents, emails, or statements from any involved  
19 students' parents;  
20 4. All text messages from any involved students;

- 1 5. All audio recordings from any involved students;
- 2 6. All video recordings from any involved students;
- 3
- 4 7. All audio recordings of students' interrogations or
- 5 interviews, including metadata regarding deletion,
- 6 whether on the personal or business cell phones of
- 7
- 8 DEFENDANT GREG SMITH and/or DEFENDANT
- 9 NORA ALVAREZ;
- 10
- 11 8. All notes from any involved teachers or administrators,
- 12 including, but not limited to, DEFENDANT GREG
- 13 SMITH and/or DEFENDANT NORA ALVAREZ;
- 14
- 15 9. All documents to or from DEFENDANT GREG SMITH
- 16 and/or DEFENDANT NORA ALVAREZ;
- 17
- 18 10. All e-mails and messages to or from DEFENDANT
- 19 GREG SMITH and/or DEFENDANT NORA
- 20 ALVAREZ; and
- 21
- 22 11. All videos from Canyon High School security cameras
- 23 (including retention policy).
- 24
- 25 ii. The Student Success Panel related to T.L. on or about January
- 26 11, 2023;
- 27
- 28

- 1           iii. All documents and records related to the investigation,  
2                 findings, disciplinary actions, settlements, and educational code  
3                 violations involving sexual assaults, alleged sexual assault,  
4                 and/or distribution of child pornography allegations at Canyon  
5                 High School for the past five (5) years including, but not  
6                 limited to, Student 2.  
7  
8  
9           iv. All documents and records related to the investigation,  
10                 findings, disciplinary actions, settlements, and educational code  
11                 violations involving the false allegations from Student D and  
12                 the distribution of nude pictures at Canyon High School.  
13  
14  
15           v. All documents and records related to the investigation,  
16                 findings, and disciplinary actions related to Student 3, a male  
17                 student who had threatened to kill students and had written a  
18                 “hit list,” naming various students, including T.L.  
19  
20  
21           vi. All documents and records related to Educ. Code Section  
22                 48900.2 “sexual harassment” violations for any and all other  
23                 students at: Canyon High School; and all other schools within  
24                 Orange Unified School District.  
25  
26           vii. All documents and records related to Student Success Panel for  
27  
28

viii. all Educ. Code Section 48900.2 “sexual harassment” violations  
for any and all other students at: Canyon High School; and All  
other schools within Orange Unified School District.

b. Undersigned counsel specifically requested the status of specific SSP  
data on April 18, 2023, in accordance with the multiple PRA requests,  
and received incomplete and limited data.

401. DEFENDANT OUSD has failed to produce to Plaintiff complete and  
timely disclosure of certain public records related to the Plaintiff’s PRA request  
involving the OUSD’s policies, practices, customs, and data related to its  
disciplinary process, including, but not limited to the SSP and the appeal process,  
as well as the specific data and information related to T.L.’s disciplinary process.

402. DEFENDANT OUSD has improperly withheld and delayed  
production and completion of its obligations under the PRA, in violation of Ca.  
Gov. Code, §6253(c).

403. To date, Plaintiff remains unclear on the complete production of  
responsive documents to Plaintiff’s PRA, DEFENDANT OUSD is improperly  
withholding documents related to its policies, practices, customs, and data related  
to its disciplinary process, including, but not limited to the SSP and the appeal  
process, as well as the specific data and information related to T.L.’s disciplinary



1 process. As a result of DEFENDANT OUSD's improper violations under the  
2 PRA, Plaintiff is prevented from providing additional factual support for his  
3 allegations, including allegations related to DEFENDANT OUSD's *Monell* and  
4 *City of Canton* and *Larez* liability.  
5

6  
7 **SEVENTEENTH CLAIM FOR RELIEF**  
8 **DEFAMATION**  
9 **(Plaintiff Against All OUSD Defendants and**  
10 **DOE DEFENDANTS 4-50)**

11 404. Plaintiff incorporates all paragraphs, as though fully set forth herein.

12 405. DEFENDANT OUSD, by and through its employees, including, but  
13 not limited to DEFENDANT GREG SMITH, DEFENDANT NORA  
14 ALVAREZ, DEFENDANT CRAIG ABERCROMBIE, DEFENDANT  
15 HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, DEFENDANT SSP  
16 PANEL MEMBERS, unidentified Canyon High School counselors, STUDENT  
17 A, and other unidentified DOE DEFENDANTS 4-50, intentionally made or  
18 otherwise made false publication that T.L. was "kicked out," "expelled," or  
19 otherwise excluded from Canyon High School because he was a "sexual  
20 harasser," engaged in "sexual assault," and/or "touched girls."  
21  
22

23 406. DEFENDANT OUSD, DEFENDANT GREG SMITH,  
24 DEFENDANT NORA ALVAREZ, DEFENDANT CRAIG ABERCROMBIE,  
25 DEFENDANT HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, and  
26  
27  
28

1 DEFENDANT SSP PANEL MEMBERS made a determination and false  
2 publication that T.L. engaged in sexual harassment, without any basis in fact or  
3  
4 law that T.L.'s actions met the definitions of state education code and law.  
5

6 407. DEFENDANT OUSD, DEFENDANT GREG SMITH,  
7  
8 DEFENDANT NORA ALVAREZ, and DEFENDANT CRAIG  
9  
10 ABERCROMBIE made a determination and false publication to refer T.L. to SSP  
11 because his offense was "beyond that of a standard suspension," absent any  
12 policies or procedures, and without any written findings, factual support, or basis  
13 in fact or law.

14 408. DEFENDANT OUSD, DEFENDANT GREG SMITH,  
15  
16 DEFENDANT NORA ALVAREZ, DEFENDANT CRAIG ABERCROMBIE,  
17  
18 DEFENDANT HERIBERTO ANGEL, DEFENDANT DAVID RIVERA, and  
19  
20 DEFENDANT SSP PANEL MEMBERS made a determination and false  
21 publication that he should be involuntarily placed at another school absent any  
22 policies or procedures, and without any written findings, factual support, or basis  
23 in fact or law.

24 409. DEFENDANT OUSD and DEFENDANT DAVID RIVERA  
25  
26 retaliated against Plaintiff T.L. for exercising his appeal rights by making a false  
27 publication that his second appeal findings are based on findings that had never  
28

1 been made anywhere in the record on appeal: 1) that T.L.’s “presence” at Canyon  
2 High School constituted a “continuing danger to Canyon’s students”; 2) that T.L.  
3 engaged in “forcible attempts to kiss and touch the intimate parts of at least six  
4 Canyon High School students during the school day”; and 3) that T.L. admitted to  
5 engaging in the alleged conduct toward five students. Each of these statements are  
6 patently false, unsupported in the record, and/or contrary to the record.  
7

8  
9 DEFENDANT DAVID RIVERA knowingly and intentionally made these false  
10 statements in retaliation for T.L.’s exercise of his appeal rights. DEFENDANT  
11 DAVID RIVERA made these false publications with a reckless disregard for the  
12 truth.  
13  
14

15 410. An unidentified counselor at Canyon High School made a number of  
16 false publications to other male high school students, if not others, that T.L. was  
17 “kicked out of Canyon High School” for “sexually harassing” female students.  
18 Upon information and belief, this unidentified counselor was not involved in the  
19 disciplinary process, does not know the facts and circumstances related to the  
20 allegations, and, at a minimum, even if he is aware of T.L.’s disciplinary record,  
21 should not have made false publications to uninvolved parties.  
22  
23  
24

25 411. Student A, and/or other female fourteen-year-old DOE  
26 DEFENDANTS, 4-50, also made statements to other students that T.L. was  
27 “expelled” or was “kicked out” of Canyon High School because he was a “sexual  
28

1 harasser,” “sexually assaulted” females, and/or “touched girls.” These statements  
2 were made in a manner that is damaging on its face.  
3

4 412. These false publications caused Plaintiff T.L. to suffer emotional  
5 distress, pain and suffering, reputational damage, and other special damages.  
6

7 413. One or more of these false publications constitute defamation *per se*.

8 414. One or more of these false publications constitute defamation *per*  
9 *quod*.  
10

11 415. One or more of these false publications about T.L. were made  
12 negligently and without a reasonable basis for determining whether the statements  
13 were true or not.  
14

15 **EIGHTEENTH CLAIM FOR RELIEF**  
16 **NON-CONSENSUAL TAPING (Ca. Pen. Code, § 637.2)**  
17 **(Plaintiff Against DOE Defendants 4-50)**

18 416. Plaintiff incorporates all paragraphs, as though fully set forth herein.

19 417. DOE DEFENDANT 4, one of the Female Students outlined above,  
20 recorded her interaction with Plaintiff T.L. without consent or authorization from  
21 T.L. Upon information and belief this was Female Student A.  
22

23 418. T.L. did not consent to this recording.

24 419. DEFENDANT GREG SMITH and DEFENDANT NORA  
25 ALVAREZ informed T.L. and his parents that they had obtained a copy of a  
26 recording but refused to produce it to Plaintiff T.L. or his parents or disclose the  
27  
28

involved student's identity.

420. Upon information and belief, this unlawfully obtained recording would have provided credibility evidence, at a minimum, related to the parties to the recording, including Plaintiff T.L.'s denial that he had engaged in any wrongdoing rising to the level of the allegations against him.

421. On or about January 9, 2023, DEFENDANT GREG SMITH and DEFENDANT NORA ALVAREZ admitted that the recording was in violation of state two-party consent requirements and, therefore, would not produce it T.L. or his parents, notwithstanding their requests for a copy.

422. Upon information and belief, there was no disciplinary investigation and/or criminal referral of the female fourteen-year-old for the recording in violation of the State's criminal laws.

423. The allegations related to this cause of action also support the allegations above related to the Ninth Claim for Relief above, Conspiracy to Violate Civil Rights.

## **VIII. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for the following relief from Defendants:

- (i) Certify the proposed Class pursuant to the Federal Rules of Civil

Procedure Rule 23(a), (b)(2), (b)(3), and/or (c)(4);

- (ii) Designate Plaintiff as a representative of the proposed Class;
- (iii) Award compensatory damages, including general and special damages, according to proof;
- (iv) Award punitive damages pursuant to 42 U.S.C. §1983 and California Civil Code § 3204, 52.1(b), and Ca. Pen. Code §502(e)(4), and any other applicable laws or statutes, in an amount sufficient to deter and make an example of each Defendant;
- (v) Award exemplary damages in accordance with Ca. Civ. Code, §1798.53, and any other applicable provisions;
- (vi) Award statutory damages, according to proof;
- (vii) Award prejudgment interest according to proof;
- (viii) Award reasonable attorney fees pursuant to 42 U.S.C. §1983, 1988; California Civil Code §§ 52.1, 52(b)(3); California Code of Civil Procedure 1025.1, Ca. Pen. Code §502(e)(2), Ca. Gov. Code, §6259(d), and Ca. Civ. Code, §1798.45-1798.48, and any other applicable provisions;
- (ix) Award costs of suit and litigation;
- (x) Award injunctive relief, including but not limited to expunging from Plaintiff's and the Class Members' educational records

CLASS ACTION COMPLAINT FOR DAMAGES

reference to any unconstitutionally-imposed discipline; and

(xi) Award such further relief which is just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, individually and on behalf of the proposed Class, respectfully  
requests a trial by jury as to all matters so triable.

This 19th day of June, 2023.

By: /s/ Je Yon Jung

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